Association, against provision in the naval appropriation bill for railway connection with the Washington Navy-Yard—to the Committee on Naval Affairs.

Also, petition of New Orleans Cotton Exchange, for investigation by Secretary of Agriculture into use and substitution of other articles of manufacture for raw cotton and report thereon—to the Committee on Agriculture.

Also, petition of bar association of New York, favoring increase of salaries of United States judges—to the Committee on the Judiciary.

By Mr. LOWDEN: Petition of National Business League of America, for appropriation for erection of buildings for consular service (H. R. 21491)—to the Committee on Foreign Affairs.

By Mr. McCALL: Petition of American Peace Society, of Boston, against further increase of the navy—to the Committee on Naval Affairs.

By Mr. McDERMOTT: Petition of Chicago Typographical Union, against provision in census bill permitting government printing to be done outside of Government Printing Office—to the Committee on the Census.

By Mr. MACON: Paper to accompany bill for relief of John Tistill—to the Committee on Invalid Pensions.

By Mr. MADISON: Petition of many citizens of Kansas against S. 3940 (Johnston Sunday law)—to the Committee on the District of Columbia.

By Mr. MANN: Petition of Manufacturers' Club of Buffalo, N. Y., favoring H. R. 22901, 22902, and 22903, relative to interstate-rate requirement—to the Committee on Interstate and Foreign Commerce.

Also, petition of National Business League of America, for appropriation to erect buildings for consular service—to the Committee on Foreign Affairs.

By Mr. PRATT: Paper to accompany bill for relief of William Garfield—to the Committee on Invalid Pensions.

By Mr. REYNOLDS: Paper to accompany bill for relief of Elmer A. Rodkey (H. R. 25651)—to the Committee on Invalid Pensions.

Also, petition of Union ex-prisoners of Beaver County, Pa., for enactment of bill to pension ex-prisoners of civil war—to the Committee on Invalid Pensions.

Also, petition of A. S. Kirsch and others, for the creation of a national highway commission and for an appropriation to aid in maintenance of public roads—to the Committee on Agriculture.

By Mr. ROBERTS: Petition of state school of agriculture at Morrisville, N. Y., favoring enlargement of authority of Department of Agriculture to the end of an adequate supply of intelligent farm labor—to the Committee on Agriculture.

Also, petition of Lumbermen's Club of Memphis, Tenn., against reduction of duty on lumber—to the Committee on Ways and Means.

By Mr. SABATH: Petition of Cheyenne Branch of Railway Postal Clerks, against H. R. 21261—to the Committee on the Post-Office and Post-Roads.

Also, petition of Chicago-Toledo-Cincinnati Deep Water Way Association, favoring construction of a canal between Toledo and Chicago—to the Committee on Railways and Canals.

By Mr. SPERRY: Resolutions of the directors of the Free Public Library of New Haven, Conn., favoring the removal of all import duties on books and other printed matter—to the Committee on Ways and Means.

By Mr. SULZER: Petition of association of the bar of New York City, favoring S. 6973 (increasing salaries of United States judges)—to the Committee on the Judiciary.

Also, petition of Washington Citizens' Association, against provision in naval appropriation bill requiring the Philadelphia, Baltimore and Washington Railway Company to maintain its railway connection with the Washington Navy-Yard by grade tracks on K and Canal streets SE.—to the Committee on Naval Affairs.

By Mr. TAYLOR of Ohio: Petition of citizens of Columbus and vicinity, against proposed increase of vessels of the United States Navy—to the Committee on Naval Affairs.

Also, petition of F. M. Rank and others, citizens of Westerville, Ohio, against a parcels-post and postal savings banks law—to the Committee on the Post-Office and Post-Roads.

By Mr. TOU VELLE: Petition of William Sterger, of Jennings Grange, No. 1320, for the creation of a national highways commission (H. R. 15837)—to the Committee on Agriculture.

By Mr. VREELAND: Petition of Portland Grange, No. 2, of Brocton, N. Y., for highway improvement (H. R. 15837)—to the Committee on Agriculture.

Also, petition of Stockton Grange, No. 316, Patrons of Husbandry, for the creation of a national highways commission (H. R. 15837)—to the Committee on Agriculture.

By Mr. WEISSE: Petition of members of faculties in universities and colleges and educators of New York, against further expenditures for armament—to the Committee on Military Affairs.

By Mr. WILLETT: Petition of bar association of New York City, for increase of salaries of judges—to the Committee on the Judiciary.

By Mr. WOOD: Petition of Mercer County Central Labor Union, of Trenton, N. J., favoring enactment of certain additional labor legislation—to the Committee on Labor.

Also, petition of Washington Valley Grange, No. 171, Patrons of Husbandry, of Martinsville, N. J., against legislation to establish a parcels post and postal savings banks (S. 5122 and 6484)—to the Committee on the Post-Office and Post-Roads.

SENATE.

THURSDAY, *January 21, 1909.*

Prayer by the Chaplain, Rev. Edward E. Hale.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. WARREN, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

LANDS OF THE CHOCTAWS AND CHICKASAWS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting, by direction of the President and in response to a resolution of April 29, 1908, certain information relative to the lands of the Choctaw and Chickasaw tribes of Indians (S. Doc. No. 675), which was referred to the Committee on Indian Affairs and ordered to be printed.

GERMAN IRON AND STEEL INDUSTRY.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, the report of Special Agent Charles M. Pepper on the German iron and steel industry, etc. (H. Doc. No. 1353), which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

ESTIMATES OF APPROPRIATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting an estimate of deficiency in the appropriation for salaries, Library of Congress, $240, etc. (S. Doc. No. 674), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting an estimate of deficiency in the appropriation for printing and binding for the Court of Claims for the fiscal year ending June 30, 1909, $5,000, etc. (S. Doc. No. 673), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

CHARLES H. DICKSON.

The VICE-PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 6665) for the relief of Charles H. Dickson, which was, in line 6, to strike out "fifty-six" and insert "forty-six."

Mr. HEMENWAY. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 653) to authorize commissions to issue in the cases of officers of the army retired with increased rank.

The message also announced that the House insists upon its amendments to the bill (S. 5473) to authorize the Secretary of the Navy in certain cases to mitigate or remit the loss of rights of citizenship imposed by law upon deserters from the naval service, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. ROBERTS, Mr. DAWSON, and Mr. PADGETT managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice-President:

H. R. 23863. An act for the exchange of certain lands situated in the Fort Douglas Military Reservation, State of Utah, for the lands adjacent thereto, between the Mount Olivet Ceme-

tery Association, of Salt Lake City, Utah, and the Government of the United States;

H. R. 24344. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors; and

H. J. Res. 216. Joint resolution for a special Lincoln postage stamp.

CREDENTIALS.

Mr. KNOX presented the credentials of BOIES PENROSE, chosen by the legislature of the State of Pennsylvania a Senator from that State for the term beginning March 4, 1909, which were read and ordered to be filed.

Mr. SIMMONS presented the credentials of LEE S. OVERMAN, chosen by the legislature of the State of North Carolina a Senator from that State for the term beginning March 4, 1909, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial, in the nature of a telegram, of the legislative assembly of the Territory of New Mexico, praying for the admission into the Union of that Territory as a new State, which was referred to the Committee on Territories and ordered to be printed in the RECORD, as follows:

[Telegram.]

SANTA FE, N. MEX., *January 20, 1909.*

The honorable President of the Senate of the United States, Washington, D. C.

The thirty-eighth legislative assembly of New Mexico, now in session at Santa Fe, has to-day directed the secretary of New Mexico to transmit to the Congress of the United States the following joint memorial: "Your memorial is to call the attention of Congress to the action of the Republican and Democratic national conventions favoring immediate statehood for New Mexico and Arizona. This legislature urges and insists that such represents the wishes of the people of the United States; that New Mexico, having 500,000 inhabitants, ample resources, and sufficient intelligence to maintain and administer a state government has reached the proper time to be admitted as a State in the Union. We ask and demand immediate action that our people may have all the benefits and advantages of the most favored American citizens, with full right of self-government, limited only as other States are limited under the Constitution."

NATHAN JAFFA,
Secretary of New Mexico.

The VICE-PRESIDENT presented a memorial of the Pope & Eckhardt Company, of Chicago, Ill., remonstrating against the enactment of legislation providing for the inspection of grain under federal control, which was ordered to lie on the table.

He also presented a petition of the Woman's Republican Club of New York City, N. Y., praying that an appropriation be made to continue the work in behalf of pure food under the supervision of Dr. Harvey W. Wiley, Chief of the Bureau of Chemistry, Department of Agriculture, which was referred to the Committee on Agriculture and Forestry.

Mr. FRYE presented petitions of sundry citizens of South Paris and Bridgeton, in the State of Maine, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

Mr. GALLINGER presented resolutions adopted by the Chamber of Commerce of Washington, D. C., and resolutions adopted by members of the Bar Association of Washington, D. C., indorsing the recommendations made by the special commission appointed to investigate the penal system of the District of Columbia, which were referred to the Committee on the District of Columbia.

He also presented a petition of the Board of Trade of Washington, D. C., praying for the enactment of legislation separating the current maintenance items of the District of Columbia from the permanent improvement projects in the annual District of Columbia appropriation bill, which was referred to the Committee on Appropriations.

Mr. SCOTT presented petitions of sundry citizens of Sistersville, Parsons, Pullman, and Terra Alta, all in the State of West Virginia, praying for the enactment of legislation to create a volunteer retired list in the War and Navy departments for the surviving officers of the civil war, which were referred to the Committee on Military Affairs.

Mr. BURKETT presented a memorial of the Young Men's Christian Association of Omaha, Nebr., remonstrating against the total exclusion of Asiatics, and praying for the enactment of legislation to exclude the delinquents and defectives of all races, which was referred to the Committee on Immigration.

Mr. CURTIS presented a petition of the Farmers' Institute of Olivet, Kans., praying for a reduction of the duty on all articles used by the farmers of the country, which was referred to the Committee on Finance.

He also presented a petition of the Grain Dealers' National Association of the United States, praying for the appointment of a commission to investigate the grain trade of the country in respect to the first handling at terminal markets, which was referred to the Committee on Agriculture and Forestry.

He also presented a memorial of the Commercial Club of Topeka, Kans., remonstrating against the passage of the so-called "rural parcels-post" bill, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. WARNER presented a petition of sundry citizens of Green County, Mo., praying for the enactment of legislation granting a pension to Thomas W. Watkins, which was referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 5202) granting an increase of pension to Paris G. Strickland, which were referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 2534) granting an increase of pension to James M. Beal, which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. FRYE, from the Committee on Commerce, to whom was referred the bill (S. 8460) to provide for the deduction of hatchways and water-ballast space from the gross tonnage of vessels, reported it without amendment and submitted a report (No. 812) thereon.

He also, from the same committee, to whom was referred the amendment submitted by Mr. WETMORE on the 18th instant, proposing to appropriate $225,000 for the construction and equipment of a steam revenue cutter for service in Narragansett Bay and adjacent waters, with headquarters at Newport, R. I., intended to be proposed to the sundry civil appropriation bill, reported favorably thereon and moved that it be referred to the Committee on Appropriations and printed, which was agreed to.

He also, from the same committee, to whom was referred the amendment submitted by himself on the 13th instant, proposing to appropriate $25,000 for the construction of a suitable vessel or launch for the customs service at Portland, Me., etc., intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be printed and, with the accompanying paper, referred to the Committee on Appropriations, which was agreed to.

Mr. HALE. I am directed by the Committee on Appropriations, to whom was referred the bill (H. R. 26399) making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30, 1909, to report it with amendments, and I submit a report (No. 813) thereon.

I shall ask the Senate to take up this bill after the passage of the legislative appropriation bill.

The VICE-PRESIDENT. The bill will be placed on the calendar.

Mr. WARREN, from the Committee on Military Affairs, to whom was referred the bill (H. R. 10606) for the relief of Robert S. Dame, reported it without amendment and submitted a report (No. 814) thereon.

He also, from the same committee, to whom was referred the bill (H. R. 16015) for the relief of Lafayette L. McKnight, reported it with an amendment and submitted a report (No. 815) thereon.

Mr. HEYBURN, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 4090) to provide for the acquiring of additional ground and for the enlarging of the government building at Boise, Idaho, reported it with an amendment and submitted a report (No. 816) thereon.

Mr. MCCREARY, from the Committee on Military Affairs, to whom was referred the bill (S. 6190) to credit certain officers of the Medical Department, U. S. Army, with services rendered as acting assistant surgeons during the civil war, reported it without amendment and submitted a report (No. 817) thereon.

Mr. BROWN, from the Committee on Indian Affairs, to whom was referred the bill (H. R. 19095) authorizing the Secretary of the Interior to sell isolated tracts of land within the Nez Perces Indian Reservation, reported it without amendment and submitted a report (No. 818) thereon.

Mr. GAMBLE, from the Committee on Public Lands, to whom was referred the bill (S. 8067) authorizing the creation of a land district in the State of South Dakota to be known as the "Le Beau land district," reported it without amendment and submitted a report (No. 819) thereon.

Mr. CLAPP, from the Committee on Claims, to whom were referred the following bills, reported them each with an amendment and submitted reports thereon:

A bill (S. 6986) for the relief of registers and former registers of the United States land offices (Report No. 820); and

A bill (S. 8252) for the relief of Elizabeth G. Martin (Report No. 821).

Mr. BURNHAM, from the Committee on Claims, to whom was referred the bill (H. R. 4119) to pay John Wagner, of Campbell Hall, N. Y., for carrying the mails, reported it without amendment and submitted a report (No. 822) thereon.

Mr. WARNER, from the Committee on Military Affairs, to whom was referred the bill (H. R. 20171) to correct the military record of George H. Tracy, reported it with an amendment and submitted a report (No. 823) thereon.

Mr. PILES, from the Committee on Commerce, to whom was referred the bill (S. 8429) to refund certain tonnage taxes and light dues levied on the steamship Montara without register, reported it without amendment and submitted a report (No. 824) thereon.

IMPROVEMENT OF EAST BOOTHBAY HARBOR, MAINE.

Mr. FRYE. I report favorably from the Committee on Commerce concurrent resolution No. 70. These concurrent resolutions ought to be passed now, for the River and Harbor Committee in the other House are considering these very questions.

Concurrent resolution No. 70, submitted by Mr. FRYE on the 18th instant, was considered by unanimous consent and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey of East Boothbay Harbor, Maine, with a view to extending the improvement contemplated in the report submitted in House Document No. 944, Sixtieth Congress, first session, to Hodgdon's wharf.

IMPROVEMENT OF SABINE PASS, TEXAS.

Mr. FRYE. I am directed by the Committee on Commerce, to whom was referred Senate concurrent resolution No. 69, submitted by the Senator from Texas [Mr. CULBERSON] on the 14th instant, to report it favorably with an amendment, and I ask for its adoption.

The Senate, by unanimous consent, proceeded to consider the concurrent resolution.

The amendment was to add an additional section, as section 3, so as to make the concurrent resolution read:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey of the jetties and channel of Sabine Pass, in the State of Texas, from the 30-foot contour beyond the bar at the entrance to said Sabine Pass to and including the turning basin at Port Arthur, with a view to widening the channel and the Port Arthur ship canal to 200 feet at bottom and increasing the depth thereof and of the turning basin to 30 feet at mean low Gulf tide, together with the extension of the walls of the existing jetties to the 30-foot contour, and to submit estimates for such improvements.

SEC. 2. That the Secretary of War be, and he is hereby, also authorized and directed to cause to be made an examination and survey of Taylors Bayou and the lumber slip adjacent thereto, with the view of removing the narrow strip of land separating Taylors Bayou and lumber slip and the deepening of said Taylors Bayou and lumber slip for a length of 2,500 feet to a depth of 30 feet.

SEC. 3. That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey of the Neches River from Beaumont to its mouth and of the Sabine River from Orange to its mouth and the canal extending from the mouths of the Sabine and Neches rivers to the mouth of Taylors Bayou, with a view to widening and deepening said canal to a width of 200 feet at the bottom of said canal and increasing the depth thereof to 30 feet, and with a further view of removing the obstructions in the said rivers and improving the same to a depth of 30 feet.

The amendment was agreed to.

The concurrent resolution as amended was agreed to.

IMPROVEMENT OF RYE HARBOR, NEW HAMPSHIRE.

Mr. CRANE, from the Committee on Commerce, to whom was referred Senate concurrent resolution No. 74, submitted by Mr. BURNHAM on the 19th instant, reported it without amendment.

Mr. GALLINGER. I ask unanimous consent that the concurrent resolution just reported be now considered.

The concurrent resolution was considered by unanimous consent and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of Rye Harbor, in the State of New Hampshire, with a view to restoring navigation therein, and to submit estimates for the same.

PROMOTIONS IN MEDICAL CORPS OF THE ARMY.

Mr. WARREN. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. 8265) to regulate examinations for promotion in the Medical Corps of the Army, to report it favorably without amendment, and I submit a report (No. 809) thereon. I ask for the immediate consideration of the bill.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the bill, as follows:

Be it enacted, etc., That any officer on the active list of the army as a major of the Medical Corps who at his first examination for promotion to the grade of lieutenant-colonel in said corps has been or shall hereafter be found disqualified for such promotion for any reason other than physical disability incurred in the line of duty shall be suspended from promotion and his right thereto shall pass successively to such officers next below him in rank in said corps as are or may become eligible to promotion under existing law during the period of his suspension. Any officer suspended from promotion as hereinbefore provided shall be reexamined as soon as practicable after the expiration of one year from the date of the completion of the examination that resulted in his suspension; and if on such reexamination he is found qualified for promotion, he shall again become eligible thereto; but if he is found disqualified by reason of physical disability incurred in line of duty, he shall be retired with the rank to which his seniority entitles him to be promoted; and if he is not found disqualified by reason of such physical disability, but is found disqualified for promotion for any other reason, he shall be retired without promotion.

Mr. GALLINGER. Mr. President, I wish to ask the Senator from Wyoming a question as to the bill. I have not had occasion to look at it. I will ask the Senator what change it makes in existing law so far as the examination and promotion of medical officers is concerned?

Mr. WARREN. The existing law regarding examinations for promotion in the Medical Corps which passed two years ago, through a change made that did not seem to be fully understood at the time, provided that officers must be examined whenever they passed from one grade to another until they arrived at the position of lieutenant-colonel; but it left the majors in such position that, failing in an examination, they stood right where they were. They had no chance for a reexamination, could not be retired, and others went up over them to the grade of lieutenant-colonel, while these men, practically discredited, were left as majors and still kept in the service.

Of course the result of that is that no post or garrison feels quite contented to have sent to them a major discredited by the department but still retained in the service.

This bill provides that these majors may have the same right as those in the line and in other departments, to take another examination, and failing in that they may be retired.

Mr. GALLINGER. The second examination takes place twelve months after the first?

Mr. WARREN. As near as practicable after twelve months.

Mr. GALLINGER. I can see no objection to the bill. I think it is a wise one.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee in the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time and passed.

CENTENARY OF BIRTH OF ABRAHAM LINCOLN.

Mr. WETMORE. I am directed by the Committee on the Library, to whom was referred the joint resolution (S. R. 117) relating to the celebration of the one hundredth anniversary of the birth of Abraham Lincoln, and making the 12th day of February, 1909, a legal holiday, to report it favorably with amendments. I call the attention of the Senator from Ohio [Mr. DICK] to the joint resolution.

Mr. DICK. I ask for the present consideration of the joint resolution.

The Secretary read the joint resolution, and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The joint resolution was reported from the Committee on the Library with amendments. The first amendment was, on page 2, line 3, to strike out the word "That."

The amendment was agreed to.

The next amendment was, on page 2, line 14, to strike out the words "that we recommend action" and insert the words "it is hereby recommended that action be taken," so as to read:

Be it further resolved, It is hereby recommended that action be taken looking to the erection in the city of Washington of a monument which shall be worthy his great fame, his service to humanity and to his country, and fittingly commemorate the grandeur of character, the nobility of life, and the epoch-making career of Abraham Lincoln.

Mr. CARTER. Mr. President, the joint resolution recommends the building of a suitable monument in the city of Washington to commemorate the memory of Abraham Lincoln. To that, of course, I do not take exception, but I believe that a fitting memorial commemorative of the great deeds and the memory of Abraham Lincoln should take form more pronounced than the erection of a monument in competition with the Washington Monument. It has been recently suggested that a monument somewhat inferior in appearance to the Washington Monument should be erected west thereof, or at some remote place in the park.

I do not wish to enter upon the subject at length at this time, but I do desire to express approval of the suggestion of

a commission which has recently reported through Mr. McCleary, of Minnesota, in favor of a great proposed Lincoln highway from the city of Washington to Gettysburg as a somewhat fitting memorial to the memory of this great man. I believe in due time that great highway will be extended south from the capital to the city of Richmond.

I do not intend to move any amendment to the pending joint resolution. The propriety of its passage is manifest; the desire to have it passed promptly is universal; but I make the observations I now submit for the purpose of having it distinctly understood that the recommendation for a monument in the city of Washington is not to be taken in any sense as binding upon the Senate or Congress as to the manner in which expression shall be given in the form of a memorial to Lincoln.

Mr. SCOTT. The Senator had better move to strike out that clause.

Mr. CARTER. It might be well to eliminate that portion which refers to a monument in Washington. No monument can be erected in Washington in competition with the Washington Monument that will at all respond to the desire of the American people to properly commemorate the memory of Abraham Lincoln. A statue on a corner or in a park such as we ordinarily erect to a man who happened to command in a successful engagement on the field or in the conduct of a series of campaigns in war will not be a memorial to Abraham Lincoln such as the American people desire to erect.

In order that there may be no mistake in the future as to the purpose of Congress in this behalf, and in order to leave the entire field open, on the suggestion of a Senator I move to amend the joint resolution by striking out that portion which proposes to recommend the building of a monument in Washington City to commemorate Abraham Lincoln.

The VICE-PRESIDENT. The Secretary will report the amendment proposed by the Senator from Montana.

The SECRETARY. In line 15, page 2, strike out the words "in the city of Washington of a monument" and insert in lieu thereof the words "of a memorial."

Mr. CARTER. I do not wish to confine the memorial to the city of Washington, but I think it would be well at this time to strike out the words so that Congress will in no sense be committed to any particular form of expression.

Mr. SMITH of Michigan. I should like to suggest to the Senator from Montana that the word "monument" be stricken out and the words "a suitable memorial" be substituted.

Mr. CARTER. I now have the text before me and I can make the amendment more specific. I suggest, in line 15, after the word "erection," to strike out the words "in the city of Washington of a monument"——

Mr. DIXON. We are unable on this side to hear what the joint resolution is that is under consideration. What is the calendar number?

The VICE-PRESIDENT. It is a joint resolution just reported by the Committee on the Library.

Mr. SCOTT. It is impossible for us on this side to hear the junior Senator from Montana.

The VICE-PRESIDENT. The Secretary will again read the joint resolution by title.

The Secretary read the joint resolution by title.

Mr. CARTER. In order to perfect the amendment, I move to strike out all after the words "looking to the," in line 15, to and including the word "monument" in the same line, and to insert in lieu thereof "the construction of a suitable memorial."

Mr. FORAKER. So that it will read how?

The VICE-PRESIDENT. The Secretary will state the amendment.

The SECRETARY. On page 2, line 15, strike out the words "erection in the city of Washington of a monument" and in lieu insert "construction of a suitable memorial," so that, if amended, it will read:

Be it further resolved, It is hereby recommended that action be taken looking to the construction of a suitable memorial, which shall be worthy his great fame, his service to humanity and to his country, and fittingly commemorate his grandeur of character, the nobility of life, and the epoch-making career of Abraham Lincoln.

Mr. GALLINGER. I will ask the Senator from Montana why he proposes to strike out the "District of Columbia." Is not this the place for a monument to Abraham Lincoln?

Mr. BEVERIDGE. Of course it is.

Mr. GALLINGER. Where else?

Mr. CARTER. Unquestionably the memorial to Abraham Lincoln will be connected with the city of Washington. I presume the Senator did not hear my previous observation to the effect that I believe we should not be bound by a recommendation which would preclude consideration of the proposed Lincoln highway from the White House door to the battlefield of Gettysburg on the north.

Mr. GALLINGER. That is a dream, Mr. President.

Mr. CARTER. It may be realized in due time. I do not wish that any expression now indulged shall preclude consideration of that project.

Mr. GALLINGER. Would the Senator from Montana have a public highway as a monument to Abraham Lincoln?

Mr. CARTER. Mr. President, the public highways of the world are the most enduring monuments in the world. With this Lincoln way 150 or 200 feet wide, and appropriating large additional spaces here and there, the States of this Union one after another would erect groups of statuary or monuments along that line, which would make it one of the most historic drives on the globe.

Mr. KNOX. Will the Senator yield for a question?

Mr. CARTER. Certainly.

Mr. KNOX. I wish to ask the Senator from Montana if it is not true that one of the most famous and enduring monuments of the world is the Appian Way, erected by the censor Appius and commemorating him, and if it is not true that one of the greatest monuments of Japan to one of her sovereigns is a great highway?

Mr. CARTER. Most assuredly, Mr. President. I think, after our ordinary monuments shall have crumbled away, the memorial roadway proposed will remain to commemorate the immortal fame of this great President of the United States. One of the difficulties in the way of an appropriate monument rests in the fact that it is not desired to erect in this capital any monument in competition with the monument erected to George Washington. And to have a piece of statuary or a group of figures erected to commemorate the memory of Abraham Lincoln, as the memory of Lafayette is perpetuated or commemorated in Lafayette Square, would, I think, fall short of the just desires of the American people to commemorate the memory of Lincoln in the most pronounced, enduring, and emphatic way.

Mr. GALLINGER. Mr. President, I have no disposition to be technical about this matter at all. I have thought for a long time that it was discreditable to the Government of the United States that we did not have a suitable memorial to Lincoln, and I have believed that one ought to be constructed in the city of Washington. If there is a prospect of carrying out the project the Senator from Montana has alluded to—to have a great highway, covering 40 or 50 miles, between here and the battlefield of Gettysburg—and if there is any hope that the States of the Union will erect monuments along that proposed highway, I admit that that is a magnificent conception and its completion would be a magnificent project.

I have a vague knowledge of the Appian Way. I know that the old countries have built memorials of that kind, and yet I did not suppose until this morning that there was any very serious thought that that suggestion would be carried into effect. If it be true that it may become an accomplished fact, I would certainly join with other Senators in the belief that that would be a very suitable memorial to Lincoln, or to any other great American, and yet I feel that Lincoln is entitled to a splendid monument of some kind in this great city.

I asked the question largely for the reason that heretofore when we have talked of erecting monuments to men who distinguished themselves in the military or the civil branches of the Government, outside of the city of Washington, we have been met with the objection that Congress ought not to appropriate money to build monuments anywhere except in the city of Washington. My attention was attracted by the suggestion that in this particular case we should eliminate the provision confining this matter to the city of Washington. I still think that when it becomes an accomplished fact, whether it comes in competition or not with the great monument to the memory of George Washington, we will have a suitable memorial in this city to the great emancipator.

Mr. BURKETT. Mr. President, it has been almost impossible for us on this side of the Chamber to find out just what is under consideration. I have sent to the Clerk's desk and I have a copy of Senate joint resolution 117. That is the one under consideration?

The VICE-PRESIDENT. That is the joint resolution under consideration.

Mr. BURKETT. We have been unable to find out what amendment has been made to the proposed legislation.

The VICE-PRESIDENT. There have been two formal amendments from the committee agreed to. The Senator from Montana submitted an amendment, which will be read by the Secretary.

Mr. BURKETT. Mr. President, I want to say just a word. This is not a matter that anybody wants to object to. As I understand, the joint resolution is not on the calendar, and it comes

up this morning by unanimous consent. I have glanced through the joint resolution and, with the exception of possibly the last section, it is, I am certain, entirely unobjectionable to everybody. But if it is to be undertaken in this way by unanimous consent upon a bill that is not printed, so far as having been printed since the report has come in, and if we are on a bill that is not on the calendar, to take up the question as to what kind of a memorial we are going to erect here or somewhere else to the memory of Abraham Lincoln, I think it ought to be objected to.

I am not opposed to erecting a suitable monument here; I am not prepared to say this morning that I am opposed to building a highway from here to Gettysburg; but I am opposed to committing the Senate and Congress to any particular thing, with no more opportunity for discussion or consideration than we will have here this morning on a bill considered by unanimous consent.

It seems to me that it is unwise to take up a measure of this importance and of this significance by unanimous consent this morning, and upon a joint resolution that is only calculated to have reference to celebrating the birthday of Abraham Lincoln.

I have read the last section of the joint resolution, and I want to call the attention of Senators to it. The last section provides:

That we recommend action looking to the erection in the city of Washington of a monument which shall be worthy his great fame, his service to humanity and to his country, and fittingly commemorate the grandeur of character, the nobility of life, and the epoch-making career of Abraham Lincoln.

Recommend action by whom? Who are we recommending to take action in this matter? What are we going to do?

Mr. WETMORE. Mr. President, I will state that those words were amended so as to read "it is hereby recommended that action be taken," instead of saying "we recommend."

I may state that it was no idea of the committee or of the Senator who introduced the joint resolution to commit Congress to any particular proposition. The object was simply to call the attention of Congress to the fact that it would be well to have a memorial erected to Lincoln. The committee so understood it and reported it that way, but not with a view to commit Congress to any particular proposition. The suggestion of the Senator from Montana is perfectly in accordance with that view.

Mr. BURKETT. Mr. President, I have not any objection, I will say, to the passage of the joint resolution so far as expressing the opinion of the Senate is concerned, that we favor at some time, in some way, somehow, at some place a suitable memorial to Abraham Lincoln, and this matter shall at some time be put into action. I think that would be very appropriate.

But I do object, as I started out to say, to adopting some plan here in the confusion that is in the Chamber this morning, and when many of us over here have not been able to understand anything that has been going on, and commit the Government to any particular kind of a memorial at this time.

If the last clause is intended for anything more than the Senator from Rhode Island has suggested, I certainly think the joint resolution ought to be laid over until it comes up on the calendar regularly, and we can have time for the discussion of it.

Mr. FORAKER. Mr. President, the Senator from Pennsylvania [Mr. KNOX] introduced in this Congress Senate bill 7665, which authorizes the construction of a great memorial highway from the city of Washington to the battlefield of Gettysburg. His bill has not yet been reported from the committee, but it brings the whole subject before us in connection with the joint resolution that was reported this morning.

I think well of the proposition to make an avenue from here to Gettysburg, as has been suggested, and I think it most appropriate that there should be some suitable memorial in honor of Lincoln here in the District of Columbia, but it occurs to me, and it does to others in this part of the Chamber, that the two propositions might well go together.

Therefore I ask that the joint resolution may go over until to-morrow, in order that we may recast it and try to frame something that will enable us to make an appropriate memorial, including the highway.

Mr. KNOX. I ask the Senator from Ohio to withdraw his request that it may go over. I think the matter can be agreed upon in the form of an amendment which I propose to suggest to the joint resolution, if the Senator will withdraw the request.

Mr. FORAKER. Very well; I will withdraw the request with pleasure, if the Senator feels that we can save time by that means.

Mr. KNOX. I move to amend——

The VICE-PRESIDENT. Does the Senator from Ohio withdraw his request?

Mr FORAKER. I withdraw my request until I have heard the Senator from Pennsylvania, who is about to offer an amendment.

Mr. KNOX. I move to amend the joint resolution by adding, in line 9, after the word "Lincoln," at the end of the joint resolution, the words "in the nature of a great national highway from the city of Washington to Gettysburg, Pa."

The VICE-PRESIDENT. The Senator from Pennsylvania proposes an amendment, which will be stated.

The SECRETARY. At the end of the joint resolution insert:

In the nature of a great national highway from the city of Washington to Gettysburg, Pa.

Mr. LODGE. Mr. President, I am thoroughly in favor of the proposition for a great highway. I think no nobler monument could be devised than such a highway running from the capital to one of the greatest battlefields of the war. But, Mr. President, I do not think that the amendment ought to be framed so as to exclude some other memorial to Lincoln here, and I am afraid, if I caught the wording correctly, that it would exclude the memorial. It might be most appropriate to place at the beginning of the highway a great arch or other monument, and I do not want an amendment adopted that would exclude the erection of a memorial in the city of Washington. The building of a highway of itself would not exclude it, of course, I think it is very desirable that the bill should permit both to be done, though I shall vote personally for the amendment of the Senator from Pennsylvania.

Mr. SMITH of Michigan. Mr. President, I did not understand the Senator from Montana to say anything which could be construed into a discrimination against the city of Washington. He simply enlarges the scope of the resolution so that it may apply either to the city of Washington or the District of Columbia or adjoining territory. I understand it to be broad enough to cover not only the suggestion of the Senator from Rhode Island [Mr. WETMORE] but the suggestion of the Senator from Pennsylvania [Mr. KNOX]. And I want to say that I would not be in favor of the construction under federal authority of a memorial to the memory of Abraham Lincoln that did not have its base and starting point in the city of Washington. I think the language is broad enough to cover the object in view, which is a most worthy one.

If there is a Senator on this floor who is not interested in the beauty and the development of this city, I do not know who he is. Any plan of this character should start here, but if there is any disagreement among us as to the character of the memorial, there can be none upon the question of making Lincoln's birthday a legal holiday, and the resolution should pass.

Mr. DICK. Mr. President, the primary object of the resolution was to fittingly commemorate the one hundredth anniversary of the birth of Abraham Lincoln. The erection of a suitable memorial is a distinct proposition. As to the first, there seems to be no disagreement or difference of opinion. As to the second, there may be a great variety of views.

I have no objection to the language of the amendment offered by the Senator from Montana [Mr. CARTER], which leaves it open, but I seriously object to committing Congress to any single proposition which may involve the real purpose of the joint resolution, namely, that on the 12th day of February we shall fittingly commemorate this great anniversary.

Mr. SCOTT. I suggest to separate the joint resolution.

Mr. DICK. I am willing that the joint resolution shall be separated, as suggested by the Senator from West Virginia. All that the joint resolution seeks to do is to recommend that suitable action be taken looking to some fitting memorial that shall be erected here or elsewhere. I hope, however, that no action will be taken that will conflict with the real purpose of the resolution itself, to which universal attention has been invited by the press of the country, by resolutions from numerous organizations, and by a message from the President. To that end I invite the attention of the Senate and urge that no unusual or hurtful delay may be occasioned by adding amendments now which may in any way interfere with its speedy passage.

Mr. CARTER. Inasmuch as there does not seem to be any objection to the amendment I had the honor to offer, I ask that it be submitted to the Senate.

Mr. NEWLANDS. For information, I should like a statement as to the amendments that are pending to the joint resolution.

The VICE-PRESIDENT. The Secretary will report the pending amendment.

Mr. LODGE. Before the amendment——

Mr. CULBERSON. Mr. President, I rise to a point of order.

The VICE-PRESIDENT. The Senator from Texas will state his point of order.

Mr. CULBERSON. I desire to know if unanimous consent has yet been given for the consideration of the joint resolution.

The VICE-PRESIDENT. Unanimous consent was given.

Mr. CULBERSON. I understood the Senator from Nebraska [Mr. BURKETT] to object.

The VICE-PRESIDENT. Some time after the consent was given the Senator from Nebraska inquired if the joint resolution was being considered by unanimous consent.

Mr. LODGE. I want to suggest a modification of the amendment of the Senator from Pennsylvania [Mr. KNOX], and that is to use the words, "memorial of Lincoln, which shall include the building of a highway." I want to make it clear that we do not exclude by the highway the construction of a memorial in Washington.

Mr. KNOX. I accept that.

The VICE-PRESIDENT. The amendment proposed by the Senator from Montana is first in order, and that amendment will be stated for the information of the Senate.

Mr. LODGE. I beg pardon.

Mr. BURKETT. I rise to a point of order.

The VICE-PRESIDENT. The Senator will state his point of order.

Mr. BURKETT. I rose a while ago; I was watching this matter; I understood unanimous consent had been asked. We could not hear over here how far along it had gotten. When I rose I asked if the joint resolution was pending by unanimous consent. I understood the Vice-President to say that it was. My observations were made with that understanding. I think those who heard me will bear me out that I had made the observation that if the consideration of this resolution was to be continued, and it was to be amended so as to become objectionable on the question of what kind of memorial we were going to have, I should want to object to it, and that objection ought to be made to it. I understood at the time that unanimous consent had not been given.

The VICE-PRESIDENT. The Chair put the request for unanimous consent to the Senate, and announced that no objection was made.

Mr. BURKETT. I will say to the Chair that I was trying to hear; that I was listening very closely for that request to be made, and therefore I asked that question.

The VICE-PRESIDENT. The Chair thought he made the statement distinctly.

Mr. BURKETT. I think it was the fault of the confusion in the Chamber and not of the Chair.

The VICE-PRESIDENT. The Senator from Nebraska will please suspend. The Senate will be in order. Senators will cease audible conversation. The Senator from Nebraska will proceed.

Mr. BURKETT. In view of the fact, then, Mr. President, that unanimous consent has been given and that it is apparent that not only this joint resolution but a great many bills that are not before us properly are going to be brought up for consideration, I ask the Senator in charge of this joint resolution if he would not be willing that it should go over, for it is apparent, by the advantage this joint resolution has obtained, that some other legislation, to which a great many would object to giving unanimous consent, is going to be attached to it in the form of amendments. It seems to me but fair, therefore, that the joint resolution should go over.

The VICE-PRESIDENT. The Chair is inclined to think that in view of the circumstances under which unanimous consent was given, and in view of the obvious misunderstanding, it would be but fair that the Senator should have the right to object now, and that the joint resolution should go over.

Mr. DICK. Mr. President——

Mr. SCOTT. Then let us understand that the Senator from Nebraska objects to the consideration of paying proper tribute to the memory of President Lincoln.

Mr. DICK. Mr. President——

Mr. BURKETT. Mr. President, let me say——

The VICE-PRESIDENT. The Senator from Ohio [Mr. DICK] has the floor. Does he yield to the Senator from Nebraska [Mr. BURKETT]?

Mr. DICK. Do I understand——

Mr. NEWLANDS. I thought I had the floor, Mr. President, and I yielded to the Senator from Massachusetts [Mr. LODGE].

The VICE-PRESIDENT. The Senator from Nevada is correct. Does he yield to the Senator from Ohio?

Mr. NEWLANDS. I do.

Mr. DICK. I addressed the Chair, Mr. President, for the purpose of inquiring if the Senator from Nebraska objected to the present consideration of the joint resolution?

Mr. BURKETT. Mr. President, I will answer the Senator. I think I ought to do so, in view of the gratuitous remark the Senator from West Virginia [Mr. SCOTT] has thrown in here, which was very certainly uncalled for, and I will not say improper, for he has been here a good many more years than I have.

The "Senator from Nebraska" does not object to the consideration of this joint resolution, but the "Senator from Nebraska" does object to taking advantage of the right that this joint resolution may have and loading it up with other legislation to which the "Senator from Nebraska" does object. The "Senator from Nebraska" does not object to paying this tribute and to passing this joint resolution; he thinks it is very proper; but he does object to having this joint resolution considered with a view of loading it up with other legislation that is objectionable.

There may be other Senators who favor the bill to construct a road to Gettysburg. A majority of the Senate will determine that. We shall have that opportunity when the bill shall come up for consideration. That is well and proper, and the "Senator from Nebraska" has nothing more to say as to that; but he does not think it is proper to take advantage of this joint resolution, popular as it is and appropriate as it is, and load it up with some other things that a good many Senators do have objection to, and which, to say the least, are questionable.

Mr. LODGE. On the point of order which has just been raised I desire to say that it is very clear that whenever this joint resolution comes up, it will be germane to it to add an amendment for a memorial. The Senator from Nebraska can not rule out amendments that he does not like. The amendments must come up in connection with the joint resolution if they are germane, and, of course, it will be open to the Senator from Rhode Island [Mr. WETMORE] to move to take the joint resolution up to-morrow at any time.

Mr. TILLMAN. Mr. President——

Mr. NEWLANDS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from South Carolina.

Mr. NEWLANDS. I yield to the Senator from South Carolina.

Mr. TILLMAN. Mr. President, I rise simply for the purpose of suggesting that it would be a misfortune and it would be a reflection upon the Senate if we could not agree upon the general purpose of this joint resolution, which is to honor with appropriate ceremonial the memory of Lincoln; and surely this squabble as to whether it shall be a highway to Gettysburg or a memorial which we shall build, ought not to militate against the prompt passage by unanimous consent of the other part of the joint resolution. I hope those who have been the means of bringing in this moot question in regard to the highway will not press that feature if it is objectionable to some northern Senators here and they do not feel that they should commit themselves to the proposition.

Mr. CARTER. If the Senator from Nevada will permit me——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Montana?

Mr. NEWLANDS. Certainly.

Mr. CARTER. Mr. President, I beg to state to the Senator from South Carolina [Mr. TILLMAN] and to the Senate that the amendment I proposed had for its object leaving the question of the form of the memorial open for future consideration. The language in the resolution in line 15 providing for the erection of a monument in the city of Washington, I ask to amend by inserting the words "the construction of a suitable memorial," leaving out the word "monument" and not incorporating the word "highway." Thus Congress would not be in any manner committed to the form of the memorial that might hereafter be considered.

There was no intention on my part to discriminate against the District of Columbia. My main purpose was to preserve to Congress the untrammeled right, without terms or recommendation outstanding to interfere, to pursue such course as might be deemed proper in reference to the construction of this memorial at some future time.

Mr. McLAURIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Nevada yield to the Senator from Mississippi?

Mr. NEWLANDS. I yield to the Senator from Mississippi.

Mr. McLAURIN. Mr. President, if there is to be built a public road from the city of Washington as a memorial to Mr. Lincoln, I suggest that, inasmuch as it is something like 50 miles, as I believe it is stated, to Gettysburg and only about 30 miles from here to Manassas, where the first great battle of the war was fought—a battle which I believe was attended by a great many Members of Congress, or those who were Members of Congress at the time—it would be a great deal more appropriate to build a road from here to that place. It might

have been a very valuable road had it been built at that time. I suggest that Manassas be substituted for Gettysburg.

Mr. WETMORE. Mr. President, the amendment proposed by the Senator from Montana [Mr. CARTER] is perfectly agreeable to the committee. That amendment does not commit Congress to any particular project. It seems to me that it would be most unfortunate if to-day we did commit ourselves to any project. This resolution simply calls the attention of the Congress of the United States to the suitability of a memorial to Lincoln without indicating what that memorial shall be or where it shall be placed.

I would therefore suggest that all these different projects can be considered hereafter when the time comes, but that to-day we all harmonize and unite in merely stating that such a memorial shall somewhere be erected to the memory of Lincoln.

Mr. NEWLANDS. Mr. President, I should like now the information for which I asked in the first instance, as to the amendments to this joint resolution which are now pending.

The VICE-PRESIDENT. The Secretary will state the amendments; but, first, the Chair will ask, Is there objection to the present consideration of the resolution?

Mr. DIXON. Mr. President, as stated by the Senator from Nebraska [Mr. BURKETT], no one in this part of the Chamber is aware of what the joint resolution under consideration may be, except from the general statements made on the floor. I think there is certainly no one over here who is not in favor of something of this kind; but, at least, let the joint resolution be printed and let it go on the calendar until to-morrow, so that we may have some intelligent conception of what these various amendments may be and to what they may refer. I think the joint resolution at least ought to be printed and placed on the desks of Senators, so that we may at least know what is under consideration.

The VICE-PRESIDENT. Under the circumstances, the Chair will decide that upon objection the joint resolution shall go to the calendar.

IMPROVEMENT OF COLUMBIA RIVER, WASHINGTON.

Mr. SIMMONS. I am directed by the Committee on Commerce, to whom was referred Senate concurrent resolution No. 73, to report it without amendment, and I call the attention of the Senator from Washington [Mr. PILES] to it.

Mr. PILES. I ask unanimous consent for the present consideration of the concurrent resolution.

The concurrent resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, directed to cause a survey and estimate to be made of the Columbia River between Wenatchee and the mouth of the Snake River in the State of Washington, with a view of making such improvements as may be deemed necessary, in order to provide for navigation between the upper and lower river.

IMPROVEMENT OF MATTAPONI RIVER, VIRGINIA.

Mr. MARTIN. I am directed by the Committee on Commerce, to whom was referred Senate concurrent resolution No. 75, to report it without amendment. I ask unanimous consent for its present consideration.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made and submit estimates for the following improvements in the Mattaponi River, Virginia:

For a channel 200 feet wide and 14 feet deep from York River to the landing one-half mile above the bridge at Walkerton.

For a channel 100 feet wide and 7 feet deep from the above-mentioned landing to Ayletts.

For a channel 60 feet wide and 5 feet deep from Ayletts to Dunkirk.

For a channel 7 feet deep across the Middle Ground, connecting the Mattaponi and Pamunkey channels, just off West Point.

For a suitable turning basin at Ayletts.

For the straightening and cutting off certain bends and points of land projecting into the river at several points between Walkerton and Ayletts.

For a thorough snagging and removal of logs from the river between Walkerton and Dunkirk, and the clearing of the river banks of all trees, stumps, etc., which make navigation dangerous at times of extra high tides or freshets in the river.

JOHN H. LAYNE.

Mr. TALIAFERRO. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. 15098) to correct the military record of John H. Layne, to report it favorably without amendment, and I submit a report (No. 810) thereon. I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of War to correct the military record of John H. Layne, late private in Company G, Nineteenth Regiment U. S. Infantry, war with Spain, who was injured at Ponce, P. R., while volunteering to help save government stores which were about to be washed away by a rapidly rising stream, and to have his discharge read: "Discharged by reason of injuries incurred in line of duty," instead of "Discharged by favor."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FISH-CULTURAL STATIONS ON PUGET SOUND.

Mr. BOURNE. I am directed by the Committee on Fisheries, to whom was referred the bill (H. R. 15452) to establish two or more fish-cultural stations on Puget Sound, to report it favorably with an amendment. I call the attention of the Senator from Washington [Mr. PILES] to this bill.

Mr. PILES. Mr. President, I ask unanimous consent for the present consideration of the bill. It was passed last winter by the House of Representatives, and there is grave necessity that it should be passed by the Senate. It is a very short bill.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Washington for the present consideration of the bill?

Mr. WARREN. I do not want to object to the ordinary consideration of these matters, and I will not object to this bill, but I shall feel under the necessity of objecting to the consideration of any other bills this morning until we can get up the appropriation bill.

Mr. SMITH of Michigan. Mr. President, I hope the Senator from Wyoming will not make that statement now. I desire to report a very simple little joint resolution of interest to the Senator from Kansas [Mr. CURTIS], which he may desire to have considered.

Mr. WARREN. Mr. President, I have myself refrained from asking for the consideration of bills that are very important for the reason that every Senator has some bill here in which he is especially interested, and I am afraid that the day may be consumed in their consideration. I will ask to what measure does the Senator from Michigan especially refer?

Mr. SMITH of Michigan. A joint resolution, local to Kansas, which I desire to report from the Committee on Commerce as soon as I can get the opportunity.

Mr. WARREN. I will not object.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill reported by the Senator from Oregon [Mr. BOURNE]?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 15452) to establish two or more fish-cultural stations on Puget Sound.

The bill was reported from the Committee on Fisheries with an amendment on page 1, line 5, after the words "Puget Sound" to insert "or its tributaries in the," so as to make the bill read:

Be it enacted, etc., That the Secretary of Commerce and Labor be, and he is hereby, authorized and directed to establish two or more fish-cultural stations on Puget Sound or its tributaries, in the State of Washington, for the propagation of salmon and other food fishes, and to make the necessary surveys, and purchase sites, construct ponds and buildings, construct, purchase, and hire boats and equipments, and employ such assistance as may be required for the construction and operation of such fish-cultural stations at suitable points to be selected by the Secretary of Commerce and Labor, and the number of such stations to be determined by him, and for said purpose the sum of $50,000 is hereby authorized to be appropriated.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

HARBOR LINES IN THE KANSAS RIVER.

Mr. SMITH of Michigan. I am directed by the Committee on Commerce, to whom was referred the joint resolution (S. R. 115) authorizing the Secretary of War to establish harbor lines in the Kansas River, at Kansas City, Kans., to report it favorably without amendment, and I submit a report (No. 811) thereon. I call the attention of the Senator from Kansas [Mr. CURTIS] to the joint resolution.

Mr. CURTIS. I ask unanimous consent for the present consideration of the joint resolution which has just been reported.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the Secretary of War to fix and establish pierhead and bulkhead lines, either or both, in the Kansas River at Kansas City, Kans., beyond which no piers, wharves, bulkheads, or other works shall be extended or deposits made, except under such regulations as shall be prescribed from time to time by the Secretary of War.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

IMPROVEMENT OF SWINOMISH SLOUGH, WASHINGTON.

Mr. PILES. I am directed by the Committee on Commerce, to whom was referred Senate concurrent resolution No. 72, to

report it favorably without amendment. I ask unanimous consent for its present consideration.

There being no objection, the concurrent resolution was considered by unanimous consent and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, directed to cause a survey and estimate to be made of the Swinomish Slough, Washington, with a view to such extensions and modifications of the project for the improvement of the same as may be necessary in the interests of navigation.

IMPROVEMENT OF SAMAMISH RIVER, WASHINGTON.

Mr. PILES. I am directed by the Committee on Commerce, to whom was referred Senate concurrent resolution No. 71, to report it without amendment. I ask unanimous consent for its present consideration.

There being no objection, the concurrent resolution was considered by unanimous consent and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, directed to cause a survey and estimate to be made of the Samamish River, Washington, with a view of clearing and restoring said river to navigation.

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 8660) granting an increase of pension to Elbridge P. Wardwell, which was read twice by its title and, with the accompanying paper, referred to the Committee on Pensions.

Mr. GALLINGER introduced a bill (S. 8661) to regulate the custody of orphan and abandoned children in the District of Columbia, which was read twice by its title and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 8662) to regulate the licensing of builders in the District of Columbia, and for other purposes, which was read twice by its title and, with the accompanying papers, referred to the Committee on the District of Columbia.

He also introduced a bill (S. 8663) granting an increase of pension to Thomas Entwistle, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 8664) granting an increase of pension to Ellen R. B. Morrill, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 8665) granting an increase of pension to Daniel M. White, which was read twice by its title and referred to the Committee on Pensions.

Mr. NELSON introduced a bill (S. 8666) granting an increase of pension to Jessie A. Bruner, which was read twice by its title and referred to the Committee on Pensions.

Mr. SCOTT introduced a bill (S. 8667) granting an increase of pension to William P. Lovejoy, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. McCREARY introduced a bill (S. 8668) granting a pension to Elizabeth Estes, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SMITH of Maryland introduced a bill (S. 8669) for the relief of Elizabeth Shutt, which was read twice by its title and referred to the Committee on Claims.

Mr. CRANE introduced a bill (S. 8670) granting an increase of pension to Almon N. Keeney, which was read twice by its title and referred to the Committee on Pensions.

Mr. WARNER introduced a bill (S. 8671) for the relief of the curators of Central College, of Fayette, Mo., which was read twice by its title and referred to the Committee on Claims.

He also introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8672) granting a pension to Amelia C. Perry;

A bill (S. 8673) granting an increase of pension to William T. Adkins;

A bill (S. 8674) granting an increase of pension to Sophrona Austin;

A bill (S. 8675) granting an increase of pension to Prince Albert Loveland;

A bill (S. 8676) granting an increase of pension to Thomas R. Buxton;

A bill (S. 8677) granting a pension to Abner Welch;

A bill (S. 8678) granting an increase of pension to Frank H. Hall;

A bill (S. 8679) granting an increase of pension to William N. Hyatt;

A bill (S. 8680) granting an increase of pension to Marcus D. Warner; and

A bill (S. 8681) granting an increase of pension to Perry H. Hayes.

Mr. CURTIS introduced a bill (S. 8682) granting an increase of pension to Elisha W. Bullock, which was read twice by its title and referred to the Committee on Pensions.

He also introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8683) granting an increase of pension to John W. McDaniels; and

A bill (S. 8684) granting an increase of pension to Roughin Brown.

Mr. LODGE introduced a bill (S. 8685) granting a pension to Ellen O. Lyon, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 8686) granting an increase of pension to Caroline E. Whiton-Stone, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HEMENWAY introduced a bill (S. 8687) to remove the charge of desertion from the military record of Sylvester Warren, which was read twice by its title and referred to the Committee on Military Affairs.

He also introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 8688) granting an increase of pension to Henry M. Lamb;

A bill (S. 8689) granting an increase of pension to James H. Shutts;

A bill (S. 8690) granting a pension to Mary M. Chalk;

A bill (S. 8691) granting a pension to Sarah L. Craig;

A bill (S. 8692) granting a pension to Emily J. Hormel;

A bill (S. 8693) granting an increase of pension to Simpson P. Watson; and

A bill (S. 8694) granting an increase of pension to William F. Atkinson.

Mr. PILES introduced a bill (S. 8695) extending the time for the construction by James A. Moore, or his assigns, of a canal along the government right of way connecting the waters of Puget Sound with Lake Washington, which was read twice by its title and, with the accompanying papers, referred to the Committee on Commerce.

Mr. BAILEY (by request) introduced a bill (S. 8696) granting a pension to Albert G. Ancell, which was read twice by its title and referred to the Committee on Pensions.

He also (by request) introduced a bill (S. 8697) for the relief of the heirs of C. C. Starnes, deceased, which was read twice by its title and, with the accompanying papers, referred to the Committee on Claims.

Mr. CLARKE of Arkansas introduced a joint resolution (S. R. 118) to enable the States of Tennessee and Arkansas to agree upon a boundary line and to determine the jurisdiction of crimes committed on the Mississippi River and adjacent territory, which was read twice by its title and referred to the Committee on the Judiciary.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. GALLINGER submitted an amendment proposing to establish a medical reserve corps in the Medical Department of the Navy, etc., intended to be proposed by him to the naval appropriation bill, which was ordered to be printed and, with the accompanying paper, referred to the Committee on Naval Affairs.

Mr. PERKINS submitted an amendment proposing to appropriate $350,000 to continue the improvement of the channel at Mare Island Navy-Yard, Cal., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. DICK submitted an amendment proposing to use the crypt and window spaces of the United States Naval Academy chapel as memorials to United States naval officers who have successfully commanded a fleet or squadron in battle, etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. WARNER submitted an amendment proposing to appropriate $25,000 to increase the limit of cost for the public building at Maryville, Mo., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. PILES submitted an amendment proposing to appropriate $763,000 for improvements at the navy-yard, Puget Sound, Washington, intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

PENSIONS AND INCREASE OF PENSIONS.

Mr. SCOTT (by request) submitted an amendment intended to be proposed by him to the bill (S. 8629) granting pensions

and increase of pensions to certain soldiers and sailors of wars other than the civil war and to certain widows and dependent relatives of such soldiers and sailors, which was ordered to lie on the table and be printed.

WITHDRAWAL OF PAPERS—CYPRIAN T. JENKINS.

On motion of Mr. TALIAFERRO it was

Ordered, That there may be withdrawn from the files of the Senate all the papers relative to the bill S. 1398, Sixtieth Congress, first session, for the relief of Cyprian T. Jenkins, there having been no adverse report thereon.

IMPROVEMENT OF APALACHICOLA RIVER AND ST. ANDREW BAY, FLORIDA.

Mr. MILTON submitted the following concurrent resolution (S. C. Res. 76) which was referred to the Committee on Commerce:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause a survey to be made of the most feasible and practical way of connecting the waters of Apalachicola River and St. Andrew Bay, in the State of Florida, with a view to determining the advantage, best location, and probable cost of a canal connecting said waters, and to submit a plan and estimate for such improvement.

CLAIMS AGAINST CHOCTAWS AND CHICKASAWS.

Mr. TELLER submitted the following resolution (S. Res. 258), which was considered by unanimous consent and agreed to.

Resolved, That the Secretary of the Interior be, and he is hereby, directed to transmit to the Senate the report of J. W. Howell, an assistant attorney in the office of the Assistant Attorney-General for the Department of the Interior, covering the investigation conducted by him by order of the President of the United States or the Secretary of the Interior during the months of November and December, 1908, of the claims of certain persons to share in the common property of the Choctaws and Chickasaws; and the said Secretary is further directed to transmit with said report all papers filed with the department which formed the basis of said investigation, as well as all data, memoranda, photographs, and all other evidence of every kind and description pertaining or appertaining to said investigation and secured by said J. W. Howell or any other officer or agent of the department connected with said investigation and of which any notation was made.

AMERICAN SUGAR REFINING COMPANY.

Mr. CULBERSON. I offer the resolution which I send to the desk, and I ask unanimous consent for its present consideration.

The VICE-PRESIDENT. The resolution will be read.

The Secretary read the resolution (S. Res. 259), as follows:

Resolved, That the Attorney-General be, and he is hereby, directed to send to the Senate copies of all correspondence in the Department of Justice relating to an alleged violation of the act of July 2, 1890, by the American Sugar Refining Company in connection with an alleged loan by that company to one Segal, in which was pledged as security therefor a majority of the capital stock of the Pennsylvania Sugar Refining Company with voting power thereon, and under which it is alleged an agreement was entered into that the Pennsylvania Sugar Refining Company should not engage in business.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. KEAN. Let the resolution go over.

The VICE-PRESIDENT. Objection being made, the resolution will lie over.

JOSEPH F. RITCHERDSON.

Mr. McCREARY. I ask unanimous consent for the immediate consideration of the bill (S. 4116) authorizing the Secretary of War to place the name of Joseph F. Ritcherdson on the rolls of Company C, One hundred and twenty-second Illinois Volunteer Infantry, and issue him an honorable discharge. I will state that a precisely similar bill passed the Senate at the last Congress.

Mr. WARREN. Mr. President, I am sorry to have to object, but I gave notice a little while ago that I should feel compelled to call up the legislative appropriation bill. Therefore I shall have to object.

Mr. McCREARY. I hope the Senator will not object to this bill. I did not hear him give the notice to which he refers.

The VICE-PRESIDENT. Objection is made.

USE OF CARRIAGES BY OFFICIALS.

The VICE-PRESIDENT laid before the Senate the following resolution (S. Res. 257), submitted by Mr. FLINT on the 20th instant:

Resolved, That the Committee on Appropriations be, and they are hereby, directed to ascertain and report to the Senate whether any officers of the Government, including the army and navy, are devoting to their personal or private use any carriages, automobiles, or other vehicles which are the property of or are provided by the Government.

Mr. WARREN. I do not see the Senator from California in his seat at this moment, and I suggest that the resolution lie over without prejudice.

The VICE-PRESIDENT. Without objection, it will be so ordered.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. M. C. Latta, one of his secretaries, announced that the President had approved and signed the following acts:

On January 21:

S. 213. An act for the relief of S. R. Green;

S. 879. An act for the relief of John S. Higgins, paymaster, United States Navy;

S. 1751. An act to reimburse Anna B. Moore, late postmaster at Rhyolite, Nev., for money expended for clerical assistance;

S. 2253. An act for the relief of Theodore F. Northrop;

S. 3848. An act for the relief of James A. Russell;

S. 5388. An act for the relief of Benjamin C. Welch;

S. 8143. An act granting to the Chicago and Northwestern Railway Company a right to change the location of its right of way across the Niobrara Military Reservation;

S. 4632. An act for the relief of the Davison Chemical Company, of Baltimore, Md.; and

S. 6136. An act authorizing the Secretary of War to grant a revocable license to certain lands to Boise, Idaho.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WARREN. I ask the Senate to resume the consideration of the legislative appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 23464) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1910, and for other purposes.

The VICE-PRESIDENT. The Secretary will report the pending amendment.

Mr. WARREN. The pending amendments are on pages 167 and 168, commencing in line 13.

The VICE-PRESIDENT. There is pending an amendment to the amendment, which the Secretary will state.

The SECRETARY. On page 167, line 13, it is proposed to strike out "ten" and insert "eight," so as to read:

Circuit courts: For 29 circuit judges, at $8,000 each.

The VICE-PRESIDENT. That is the amendment proposed by the Senator from Idaho [Mr. BORAH]. The question is on agreeing to the amendment to the amendment.

Mr. BORAH. I desire to ask the Senator in charge of the bill a question with reference to the expenses and the allowances now made to take care of the expenses.

Mr. WARREN. I stated yesterday the law regarding the expenses, and I have in my hand, which has just come from the Treasury Department, a statement for the last fiscal year of the expenses paid by the Government for each and every one of the circuit and district judges.

The way the bill stands, it would leave the matter of expenses exactly as the present law provides. They would have the salary we may accord them, and it would simply reimburse them for what they have paid out, provided it did not exceed $10 in any one day. It is impossible for them to get a penny legally except where they have paid it out in traveling expenses away from home, and it is impossible for them always to get as much as they pay out, because of the limit of $10 per day. Perhaps the Senator would like to have the list read.

Mr. BORAH. I do not know that I care to have it read. The law now provides a means by which they have an expense account up to $10 a day.

I believe there was a call for the yeas and nays on this question.

Mr. WARREN. Does the Senator wish to move nine thousand or eight thousand?

The VICE-PRESIDENT. The amendment to the amendment proposes to strike out "ten" and insert "eight."

Mr. WARREN. Very well. I hope the amendment will be lost.

The VICE-PRESIDENT. The question is on agreeing to the amendment to the amendment, on which the yeas and nays have been ordered.

Mr. SCOTT. The change is what? Will the Secretary again state the amendment?

The SECRETARY. On page 167, line 13, it is proposed to amend the committee amendment by striking out "ten" and inserting "eight," so as to read:

For 29 circuit judges, at $8,000 each.

Mr. WARREN. I suggest the absence of a quorum.

The VICE-PRESIDENT. The Senator from Wyoming suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Cullom	Gary	Overman
Bailey	Curtis	Guggenheim	Page
Bankhead	Davis	Hale	Paynter
Beveridge	Depew	Hemenway	Penrose
Borah	Dick	Johnston	Perkins
Bourne	Dillingham	Kean	Rayner
Brandegee	Dixon	Kittredge	Scott
Brown	du Pont	Knox	Simmons
Bulkeley	Flint	La Follette	Smith, Md.
Burkett	Foraker	Lodge	Stephenson
Burnham	Foster	Long	Taliaferro
Burrows	Frazier	McCreary	Teller
Carter	Frye	McEnery	Tillman
Clapp	Fulton	McLaurin	Warner
Crane	Gallinger	Martin	Warren
Culberson	Gamble	Milton	Wetmore

The VICE-PRESIDENT. Sixty-four Senators have answered to their names. A quorum of the Senate is present.

Mr. WARREN. I ask that the question be stated.

The VICE-PRESIDENT. The Secretary will again state the amendment to the amendment.

The SECRETARY. On page 167, line 13, the amendment of the committee proposes to strike out "seven" and insert "ten." It is now proposed to strike out "ten" and insert "eight;" so as to read:

For 29 circuit judges at $8,000 each.

Mr. BACON. I understand—and I will ask the Senator from Wyoming if I am correct—that if the salary is fixed at $8,000, the judges will in addition to that get the per diem of $10 a day for expenses when away from their homes.

Mr. WARREN. As I have already stated, it does not interfere with the present law. It is simply a vote upon the question of the raise of salary.

Mr. BACON. Then I am correct in that statement?

Mr. WARREN. They get their reimbursement of expenses when away from home.

Mr. BACON. I understand.

Mr. WARREN. Not exceeding $10 a day.

Mr. TELLER. They get no allowance when at home, but when away they get the expenses absolutely incurred, not exceeding $10 a day.

Mr. BACON. I understand that.

The VICE-PRESIDENT. The Secretary will call the roll on the question of agreeing to the amendment to the amendment.

The Secretary proceeded to call the roll.

Mr. CLARKE of Arkansas (when his name was called). I am paired with the Senator from Rhode Island [Mr. ALDRICH]. I do not know how he would vote, if present. I withhold my vote.

Mr. WARREN (when his name was called). I have a general pair with the Senator from Mississippi [Mr. MONEY]. He is not present at this moment. I transfer the pair with the Senator from Mississippi [Mr. MONEY] to the Senator from New York [Mr. PLATT], and I will vote. I vote "nay."

The roll call was concluded.

Mr. KEAN. My colleague [Mr. BRIGGS] is necessarily absent. If he were present, he would vote "nay." He is paired with the Senator from Tennessee [Mr. TAYLOR].

Mr. CLARK of Wyoming. I have a general pair with the Senator from Missouri [Mr. STONE]. I transfer the pair for this vote and for the day to the Senator from Washington [Mr. ANKENY]. I vote "nay."

Mr. BAILEY (after having voted in the affirmative). I am paired with the Senator from West Virginia [Mr. ELKINS]; and much as I should like to permit my vote to stand, I feel compelled, in his absence, to withdraw it.

Mr. GAMBLE. I desire to inquire if the Senator from Nevada [Mr. NEWLANDS] has voted? I am paired with that Senator.

The VICE-PRESIDENT. He has not voted.

Mr. GAMBLE. I transfer my pair to the junior Senator from Nevada [Mr. NIXON] and will allow my vote to stand.

Mr. BAILEY. I am advised that the Senator from Oklahoma [Mr. GORE] is absent and without a pair. I transfer my pair with the Senator from West Virginia [Mr. ELKINS] to the Senator from Oklahoma [Mr. GORE] and will let my vote stand.

The result was announced—yeas 31, nays 38, as follows:

YEAS—31.

Bacon	Curtis	La Follette	Page
Bailey	Davis	McCreary	Paynter
Bankhead	Dixon	McEnery	Simmons
Brown	Frazier	McLaurin	Smith, Md.
Burkett	Fulton	Martin	Taliaferro
Clapp	Gamble	Milton	Tillman
Clay	Gary	Nelson	Warner
Culberson	Johnston	Overman	

NAYS—38.

Bourne	Dick	Heyburn	Richardson
Brandegee	Dillingham	Kean	Scott
Bulkeley	du Pont	Kittredge	Smoot
Burnham	Flint	Knox	Stephenson
Burrows	Foraker	Lodge	Sutherland
Carter	Frye	Long	Teller
Clark, Wyo.	Gallinger	Penrose	Warren
Crane	Guggenheim	Perkins	Wetmore
Cullom	Hale	Piles	
Depew	Hemenway	Rayner	

NOT VOTING—23.

Aldrich	Cummins	Hansbrough	Owen
Ankeny	Daniel	Hopkins	Platt
Beveridge	Dolliver	McCumber	Smith, Mich.
Borah	Elkins	Money	Stone
Briggs	Foster	Newlands	Taylor
Clarke, Ark.	Gore	Nixon	

So Mr. BORAH's amendment to the amendment was rejected.

The VICE-PRESIDENT. The question recurs on agreeing to the amendment of the committee.

The amendment was agreed to.

The next passed-over amendment was, on page 167, line 23, to strike out "six" and insert "eight;" and in line 25, before the word "thousand," to strike out "five hundred and four" and insert "six hundred and seventy-two," so as to read:

District courts: For salaries of the 84 district judges of the United States, at $8,000 each, $672,000.

Mr. FORAKER. I move to strike out "eight" and insert "nine." I want to say a word in behalf of the amendment.

Every practitioner in the courts of the United States knows that the district judges do as much work as the circuit judges. They really do more. The district judges sit as circuit judges. The circuit judges never sit as district judges. The living expenses are the same. It seems to me there ought not to be any more than a nominal difference between them. I know that the district judge in the district in which I live is one of the hardest working judges on the bench anywhere in the country, and I think that is true throughout the country.

Mr. BACON. I should like to ask the Senator from Ohio a question.

Mr. FORAKER. The difference at this time is but a thousand dollars, and I do not believe we ought to make it greater than that; and having determined that the salary of the circuit judges shall be $10,000, the salary of the district judges should not be less than $9,000.

Mr. BACON. I should like to ask the Senator a question. I am particular to ask him the question, because there is no harder working Member of the Senate, as I happen to know personally, than the Senator from Ohio. Does he think there is any district judge who does more labor than does the Senator from Ohio in the discharge of his duty here?

Mr. FORAKER. I think not; but at the same time I have practically half the year that I can devote to my own private business, which the district judge does not have. The district judge and the circuit judge are of necessity denied our opportunity to pay attention to private affairs.

Mr. BACON. I want to say to the Senator from Ohio that in having half the year for his private business he has very much more than I have. I give my entire time, except a small time devoted to vacation, to my official duties and to nothing else.

Mr. FORAKER. I am sure the Senator from Georgia does work all the time about his business as a Senator. I can return the compliment he has paid me. I do not know any Member in this body who works more steadily and industriously than does the Senator from Georgia. I have no doubt that, as he says, he devotes practically all of his time to his official duties. With me it is somewhat different. I have, as a matter of necessity, to devote part of my time to my own affairs.

Mr. BAILEY. I desire to suggest to the Senator from Ohio that, while there is a difference between him and the district judge, in that the Senator has a part of his time which he may devote to his personal affairs and the judge has not, there is also this other difference, that the judge does not need to do that because the Federal Government not only pays him his salary while he is at work, but it continues it after he has retired, and that salary follows him to the grave. The salary of a district judge amounts to a fixed and permanent annuity. Therefore he has no reason to be looking about his private affairs.

Mr. FORAKER. Will the Senator allow me to ask him a question?

Mr. BAILEY. Certainly.

Mr. FORAKER. Is there any more need for a circuit judge having $10,000 than there is for a district judge having $9,000?

Mr. BAILEY. There is not, and I am not so sure that there is not more logic in the Senator's motion than there is in many

of these increases. I will ask the Senator from Ohio what his State pays the judges of its highest court?

Mr. FORAKER. The salaries are less than $10,000; I think $6,000 or $7,000, possibly $8,000 in some of the large cities. I am not sure about it. I did know at one time, when I had the honor to sit on the bench. I knew what the salary was, but that was many years ago. We were then paid $5,000 a year. The salary was immediately after that raised to $6,000, and I am not sure but that there has been an increase of late years in the salaries of the judges in the large cities of the State. I am sorry I can not give the Senator better information.

Mr. BAILEY. The Senator has supplied sufficient information. I simply asked the question for the purpose of calling attention to the fact that we sit here as the Senators from the various States, and we are voting to give the trial judges of the United States Government larger salaries than our States pay the appellate judges in the several States which we represent.

Mr. KEAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from New Jersey?

Mr. BAILEY. Certainly.

Mr. KEAN. I should like to say to the Senator from Texas that that does not apply to the State of New Jersey.

Mr. BAILEY. I know it is not the universal rule, but, Mr. President, the fact is that the States which have the highest salaries frequently have the poorest judges.

Mr. KEAN. That is not the case in New Jersey.

Mr. BAILEY. I do not say that it is true of New Jersey.

Mr. KEAN. It can not be said of New Jersey.

Mr. BAILEY. I do not say it is true of New Jersey, but I do say that there was a time in the history of this Republic when the chancery reports of New Jersey compared favorably with any ever delivered from the bench.

Mr. KEAN. And I think they do to-day.

Mr. BAILEY. Yet those earlier chancellors did not receive the $10,000 which their successors receive to-day. The greatest courts in this Union have not been those in which the judges have received the highest salaries; and it is a matter of common experience among lawyers that that State to-day which pays the highest salaries to its judges—I mean trial and appellate judges—furnishes reports upon which you can find something on both sides of almost every question which is raised. I do not think the size of the salary will determine the wisdom of a judge.

But, however that may be, I can not comprehend how we can feel as Senators that we ought to pay the trial judges of the Federal Government higher salaries than we pay the highest judges in our several States. Either we pay these too much or else we pay these too little. It will not do to say we pay them too little, because we have commanded in our several States men of the greatest ability and of the highest character who are glad to write their names imperishably in the jurisprudence of their States by serving as chief or supreme judges.

Mr. LA FOLLETTE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Wisconsin?

Mr. BAILEY. I do.

Mr. LA FOLLETTE. If I may be permitted to make a suggestion to the Senator from Texas, I will state that the reason which underlies the difference in the legislation is that the men who make the salaries of the judges of our appellate courts in the various States of the Union are considerably nearer to the taxpayers than we are.

Mr. BAILEY. I am afraid, Mr. President, that is the full and perfect explanation. So much more is the pity. I do not think we ought to be so free with the people's money because we are so far from the people's power. I do not assert that Senators here would be afraid to vote this way if they were in the legislatures of their several States instead of the Senate of the United States, but in this atmosphere we become infected with the idea that salaries ought to be large because entertainments ought to be brilliant and numerous. That may be the explanation of all these increases.

Mr. WARREN. Does the Senator from Texas apply that to the district judges throughout the United States?

Mr. BAILEY. Oh, no; but having set the example of giving large salaries to important officials, of course it follows on down, and it will include everybody of importance except the House and the Senate. The House and the Senate are a little sensitive about doing anything for themselves. Consequently they are perfectly willing to leave themselves underpaid, if it be true that these judges are entitled to receive what they are given by this bill.

Mr. WARREN. If the Senator will permit me——

Mr. BAILEY. If the Senator will allow me, there is not a circuit judge of the United States who would not be glad to leave the bench to take a seat in the Senate.

Mr. WARREN. For the honor.

Mr. BAILEY. For the honor, yes; and for the honor of a position on the bench they ought to be satisfied when they have been given sufficient to live upon in decency.

Mr. WARREN. Will the Senator allow me to make a suggestion right there?

Mr. BAILEY. Certainly.

Mr. WARREN. I think the Senator has not considered, or, if he has, I should like to have his opinion on the fact, that the state supreme judges usually live at the capital. They have no traveling expenses. The district judges in many States have several hundred dollars, and sometimes more than a thousand dollars, of traveling expenses in a year, for which there is no reimbursement. So district judges in a State where the courts are held at points which are not near each other have large traveling and away-from-home expenses. Perhaps the Senator heard me say yesterday that we undertook last year to cover it, and we put a provision into the sundry civil appropriation bill allowing the district judges not exceeding $6 a day for such expenses, but it went out in conference. While they now receive the pay if they go on circuit outside their district, they do not receive any reimbursement for any of their expenses for travel within their districts.

Mr. BAILEY. Certainly not.

Mr. WARREN. And there is where they differ from the state judges.

Mr. BAILEY. I know of district judges in the State equal to the district judges of the federal bench who hold court eleven months in the year, having but one month's vacation, who are away from their homes eight-tenths of their time, and who pay every dollar of their expenses when away; and they never have the privilege of drawing $10 when transferred to another district. That is true, I have no doubt, in Wyoming. I know that it is true in Texas; and without intending to make any invidious comparison, I may say that the federal judges in Texas are the equal of federal judges elsewhere; and yet they are in no wise superior, either in intellect or in character, to many of the men who serve us upon the district bench of our State. Yet those district judges receive one-half of what the federal judges receive. They are away from home more than the federal judges, and work harder when they are at home than the federal judges do.

Now, I want to say to the Senator from Ohio, if it is true that the federal judges are overworked, the remedy is not an increase in pay.

Mr. MARTIN rose.

Mr. BAILEY. The remedy is a reduction in labor, and instead of increasing the pay let us appoint more judges, so that they can do less work and, therefore, better work. I yield to the Senator from Virginia.

Mr. MARTIN. With the permission of the Senator from Texas, I desire to say that in my State the supreme court judges are rarely at home. They have to hold court in three separate and distinct places, so that no one of them is ever at home any considerable part of the year; and the salary is $4,500.

Mr. WARREN. Let me ask the Senator if the State does not provide for their contingent expenses. Most States do.

Mr. MARTIN. They do not in my State.

Mr. WARREN. They provide nothing?

Mr. MARTIN. Nothing.

Mr. BAILEY. In many of the States what the Senator from Virginia says is true. It is true in Tennessee. In our State our supreme court is located at the seat of government, but it is not true that all the judges live there. They have retained their several residences and make their homes there only during their incumbency. But we are one of the few States in the Union which maintains a separate court of criminal appeals, and that court holds sessions at three places. No provision is made for their traveling or other expenses, and their salaries are not equal to the present salaries of the federal district judges.

Mr. President, I have detained the Senate on this question until, I take it, the sound of my voice is not very agreeable. I intend to consume no further time, but I protest in the name of your State and mine against the proposition to give a trial judge of the Federal Government a higher salary than the judges of our highest state courts receive.

Mr. SCOTT. Mr. President, I want to detain the Senate only a moment. I have here a statement sent to me by a district judge. He makes an estimate of his expenses. He says that to one manservant he pays $30 a month. I am sure all will admit that that is very reasonable. To a cook he pays $20,

and to one housemaid $10. For horse keeping he pays $10 a month. For rent of house he pays $100 a month. Then for provisions, and so forth. He pays on $20,000 of life insurance $800, and on fire insurance for his library and other household fixtures he pays $400. He says that for four months of the year he is out of his district holding court, from home, his expenses amounting to $6 a day. He says there ought to be some new law, and certainly Senators here who are lawyers will not dispute that. He estimates a total of $5,460, leaving about $500 with which to educate his children.

Mr. BAILEY. He has left out his laundry bill, too.

Mr. SCOTT. The Senator will notice that I quoted the fact that he had a maid at $10 a month, who probably attends to that. If that statement is at all accurate, these judges certainly ought to have their salaries increased.

Mr. PILES. Mr. President, no district judge in my State has referred to an increase of his salary. The bar of the State have requested me to support this measure. The salary, as I now recall it, which they petitioned me to support is $10,000 for the circuit judges and $9,000 for the district judges.

The Chamber of Commerce of the City of Seattle, one of the greatest commercial cities of the State has passed resolutions favoring this increase. The Chamber of Commerce of the City of Spokane, which is situated in the eastern part of the State, in the great agricultural part of the State, has petitioned me to support the increase. They contend, as the lawyers have contended in different parts of the State, that the increase is nothing more than fair to the federal judges.

I may say that the legislature of the State of Washington two years ago increased the salary of the supreme judges of that State to $6,000, and as we grow and increase in population and wealth it will in all probability increase the salary of the supreme judges of the State.

I feel from the letters and resolutions which I have received that a large portion, at least, of the people of the State of Washington favors the increase now under consideration.

I may say with respect to the district judges in the State of Washington that there is no man on the federal bench there who could not earn from $15,000 to $25,000 a year if he were practicing law. I believe that if the district judge in the city of Seattle were to retire to-day from the bench he could, in view of his well-known ability and the present opportunities in that section of the country, earn the gross sum of $50,000 a year in the practice of the law.

Mr. BORAH. Mr. President——

The VICE-PRESIDENT. Does the Senator from Washington yield to the Senator from Idaho?

Mr. PILES. Certainly.

Mr. BORAH. I wish to ask the Senator from Washington if that is true why does not the judge retire from the bench and earn $50,000, if it is simply a question of salary?

Mr. PILES. I said at the outset that no judge in my State had requested me to support an increase of his salary.

Mr. BORAH. But that discloses the fact that we can not compensate these men in dollars and cents.

Mr. PILES. I agree with the Senator there thoroughly. I am not speaking on the question whether the judge should resign. Will the Senator say that he, himself, can not earn three times the salary he receives from the Government if he would resign from the Senate and resume the practice of the law?

Mr. BORAH. I am not resigning.

Mr. PILES. Is there any lawyer in this body who came from the Pacific coast (and I speak of that simply because it is a new country, and the practice of the law offers greater opportunities than in some sections) who could not earn from two to three times more than the salary he receives as a Member of this body?

Mr. BAILEY. Does the Senator want an answer to that?

Mr. PILES. I asked the question. Does anyone deny it?

Mr. BAILEY. I say to the Senator that I utterly deny it. I say that Daniel Webster, in the height of his powers, could not have earned $22,500 in many of the communities where great Senators live. It is not merely a man's ability which determines his income at the law, but it is determined almost entirely by the character of the practice where the lawyer resides.

Mr. PILES. I spoke of the Pacific coast.

Mr. BAILEY. Let me say to the Senator from Washington, I am amazed that any man who can earn $50,000 a year at the bar would accept the office of a district judge, not merely because of the difference in money between the income of the lawyer and the salary of the judge, but it must be a leader of the bar who can earn $50,000 a year, and the leader of any bar occupies a more distinguished position than a district judge.

Mr. PILES. I may say to the Senator from Texas that the district judge in the city of Seattle always was a leader of the bar; and while I do not care to be personal, I may say that he is to-day one of the most distinguished lawyers in this country, and he would adorn the Supreme Bench of the United States.

Mr. BAILEY. That is probably what he is looking to.

Mr. PILES. I should be very much gratified to see him appointed to the Supreme Bench.

In view of the resolutions which I have received from the lawyers and the commercial bodies of the State of Washington, I feel that the people of that State favor the increases provided for in this bill in so far as it relates to the judges of the circuit and district courts, and I shall give them my support.

Mr. RAYNER. Mr. President——

The VICE-PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (S. 6484) to establish postal savings banks for depositing savings at interest, with the security of the Government for repayment thereof, and for other purposes.

Mr. NELSON. I ask that the bill be temporarily laid aside.

The VICE-PRESIDENT. The Senator from Minnesota asks that the unfinished business be temporarily laid aside. Without objection, it is so ordered. The Senator from Maryland will proceed.

Mr. RAYNER. Mr. President, I am in favor of this increase, and I am in favor of the increase along the whole line of judicial appointments. Of course, we are getting to be more liberal in our expenditures; I will admit that; and it may be a lamentable condition that we have reached; but we must meet existing conditions. Things that were luxuries years ago are necessities now. My own opinion is that the judges upon the federal circuits and the judges on the state courts are about the worst underpaid men in any office, either in the State or in the Nation.

We are increasing things all along the line. It has only been a few weeks ago that the Smithsonian Institution appropriated $25,000 to a great faunal naturalist who is about to proceed to the jungles and forests of a distant continent in search for animals that, so far as I have been able to discover, have never had any existence in all the periods of geologic time. This is not exactly germane to the subject—I will get to the subject in a minute.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Does the Senator from Maryland yield to the Senator from Idaho?

Mr. RAYNER. Yes; I will yield if it is a pertinent question.

Mr. BORAH. I want to know if the Senator is a naturalist?

Mr. RAYNER. I am not a game butcher; but I am a sort of zoologist and naturalist both. I know something about zoology, and I know that there never has been any such thing on the face of this earth as a white rhinoceros or an orang-outang with a nose 3 inches long, that the President proposes to encounter, so far as my research of natural history extends.

Mr. BACON. Does not the Senator think it is very dangerous to express an opinion as to natural history?

Mr. RAYNER. I will ask the Senator from Georgia why?

Mr. BACON. I decline to say why.

Mr. RAYNER. The Senator from Georgia is one of the directors of the Smithsonian Institution, and I should think the Senator would certainly not be afraid to express an opinion on natural history, even if I am.

Mr. BACON. I do not claim to be an expert. The Senator does.

Mr. RAYNER. I am an expert on this particular business. I will get to the judges in a minute when I finish this. I want to say that while there might be a doubt about the existence of these animals, there is no earthly doubt but that if they do exist they will be rapidly exterminated and annihilated at the hands of the great naturalist who is about to proceed to the African Continent. I want you to understand that I have no objection at all to his going. I think this donation of $25,000 will be very conducive to the peace and welfare of the Nation, temporarily at least. I have no feeling about the money at all, and I hope that the President will achieve new triumphs in those distant fields of combat and of carnage. When he returns I believe that he will bring back to the museums and menageries of the world animals that have never yet crossed the track of any explorer and have never yet been mentioned among the classifications of zoology.

Mr. BACON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Georgia?

Mr. RAYNER. If it is a pertinent question.

Mr. BACON. I only want to ask the Senator what $25,000 appropriation he referred to?

Mr. RAYNER. I referred to an appropriation of $25,000 from the Smithsonian Institution.

Mr. BACON. I thought I understood the Senator correctly in that regard, and it is proper that I should correct the statement made by him. It is not true that the Smithsonian Institution devotes a dollar to that expedition. It is true that the expedition is, in compliance with the request of the President, to be under the auspices, as it were, of the institution, but the money is procured from private sources, and not one dollar is appropriated from the funds of the Smithsonian Institution or from any amount appropriated by Congress.

Mr. RAYNER. Of course the publication that we have read in the papers all along is that this money is being appropriated by the Smithsonian Institution. I suppose the Senator is——

Mr. BACON. I am glad of an opportunity to make correction, because the fact is as I have stated.

Mr. RAYNER. Now to the amendment. I would say this, Mr. President: I do not think, with due respect to the Senator from Texas, that there is a single judge, if he is honest and if he is capable, in any state court or upon any federal circuit or in any federal district who is not underpaid. That is my own judgment, of course.

Mr. BAILEY. Will the Senator yield for a question?

Mr. RAYNER. Certainly.

Mr. BAILEY. I ask the Senator from Maryland whether he means, by saying that the judge is underpaid, that he is paid less than his services are worth or whether less than he could earn as a practitioner?

Mr. RAYNER. I mean paid less than what his services are worth. There are men who go upon the bench who have very little practice. There are other men who go upon the bench who sacrifice a very lucrative practice, just as Senators here sacrifice a large practice for the honor of representing their States in the Senate.

Mr. BAILEY. I was about to observe, if the measure is the value of the service, then Senators are underpaid and they are entitled to the benefit of this argument. I take it for granted that the honor of the bench is as much an inducement for men to accept that position as the honor of the Senate is an inducement for us to accept position here; and when a lawyer will abandon a $50,000 practice, as was true in the instance which the Senator from Washington [Mr. PILES] has just recited, then the honor, we must admit, is a great one indeed. And, begging the Senator's pardon, it comes back to my original proposition that the incumbents of these high offices ought to have a salary sufficient to support them in decency and comfort and take the balance of their pay in the honor of the station. We must do it, and all others ought to be willing to do it.

Mr. RAYNER. I regret that I can not agree with the argument of the Senator from Texas at all, that because we are underpaid we ought to underpay the judges. If we are underpaid, that is a question for consideration. Because we receive a salary—admitting it to be so—less than we ought to receive, why should a judge of a United States court, then, receive a salary less than he ought to receive?

Mr. BAILEY. Will the Senator permit me?

Mr. RAYNER. Certainly.

Mr. BAILEY. I did not say we are underpaid.

Mr. RAYNER. But assuming that we are?

Mr. BAILEY. I do not think we are underpaid. When Senators have a private fortune, I think it is their right and privilege to spend it; but every Senator here can live in decency and comfort on the salary; and seeing that we take it with no thought of making money out of the salary, it simply increases the honor of the position, and all value the honor infinitely more than we do the salary.

Mr. RAYNER. Honor, Mr. President, does not support large families. Honor is very well for the individual who accepts the honor, but it does not come to his relief when he is surrounded by a number of persons, perhaps outside of his family, who depend upon him for support.

I am not prepared to say how many Senators are here who could make more than their salary or less than their salary. The Senator from Texas has often said on this floor, I have no doubt rightfully, that a position in this body should not preclude anyone from either attending to his proper vocation or following his profession. I know that, as far as I am concerned, I have been in the Senate now about three years, and I had a practice certainly in excess of the salary that is paid me now. I have not taken a dollar since I have entered this Chamber. I have not been in my office a half dozen times, and I know very well if I had to depend upon the salary of $7,500 here in Washington it would be a very difficult matter to live properly.

Mr. BAILEY. It would not be difficult at all if the Senator would go to his office when Congress is not in session; but, having a fortune outside, it is not necessary for him to practice law.

Mr. RAYNER. I made up my mind that I either had to go to my law office or go to the Senate, that I could not do both. So I made up my mind that my duty to my constituents was here, and I practically abandoned my practice. I have entirely abandoned it while I am here. That, however, does not touch the question. We raised our own salaries. I may be wrong, of course, and the Senator from Texas may be right. He has different views from what I have on the subject. I say the larger the salaries, as a rule, the better men you can get for the bench. You can not get proper men upon the bench by paying them the inadequate salaries that a good many States pay. It is all very well to talk about Daniel Webster in his day, and to ask what could Webster do now if Webster were living. What does the Senator from Texas suppose Webster could make now if he were practicing law?

Mr. BAILEY. If he were practicing law at Marshfield, Mass., he would probably make $2,500 a year, but if he practiced law in the city of New York, he would probably make $100,000 a year.

Mr. RAYNER. I say, therefore, what Webster would make now is an entirely different proposition from what he would have made then. We are talking about our present environment. The Senator talks about the New Jersey decisions. The New Jersey decisions are excellent now, and I do not agree with him upon the New Jersey decisions. I think the New Jersey judges among the best in the country. I want to say that you can not get upon the bench a proper set of men unless you pay them proper salaries. There are very few lawyers who will give up a practice of $25,000 or $50,000 a year for the purpose of getting $8,000 or $9,000 as a salary for the honor of the position. We have not been able to do it in Maryland. We have as fine a bench in Maryland to-day as there is in the country, but it is composed of a class of men who have made sacrifices.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maryland yield to the Senator from Texas?

Mr. RAYNER. I do.

Mr. BAILEY. I think when the Senator from Maryland gets the stenographer's transcript of his notes he will want to change what he has said in the last sentence or two. In one breath the Senator says it is impossible to get the right kind of men unless you pay them adequate salaries, and in the next breath he says they have some of the best men in the world on the bench in Maryland, even with inadequate salaries.

Mr. RAYNER. I do; and those two statements entirely comport with each other.

Mr. BAILEY. Those two statements are utterly irreconcilable.

Mr. RAYNER. I do not agree with the Senator.

Mr. BAILEY. If it is impossible—let me state it this way——

Mr. RAYNER. Let me state it first. I have not yet finished the sentence. I think I am entitled to make a statement, and then I will hear the Senator. I say these are men who make sacrifices. I do not say that every man in his profession is willing to make the sacrifice. I am stating an example. Men have made sacrifices, but it does not follow that every man who has a good practice is willing to abandon his practice for the purpose of getting on the bench. So the two statements which I have made are absolutely consistent, and I shall not correct them in the stenographer's transcript.

Mr. BAILEY. Mr. President, with the Senator's permission, I return to the question. He says you can not get the right kind of men unless you pay them adequate salaries.

Mr. RAYNER. As a rule.

Mr. BAILEY. The Senator adds that. But I will take it that way.

Mr. RAYNER. Of course, as a rule.

Mr. BAILEY. I will accept the qualification. The Senator from Maryland says the present salaries are inadequate. Then the Senator must mean, if both of those statements are true, that our present judges are not the right kind of men.

Mr. RAYNER. I do not mean that, and there is no logical connection between those two statements. I say there are plenty of men in the Senate of the United States who have made sacrifices, but the Senator from Texas——

Mr. BAILEY rose.

Mr. RAYNER. One moment. I can not yield now. The Senator from Texas knows, and every lawyer upon this floor knows, that men have made these sacrifices. Plenty of them make such sacrifices by taking places upon the bench and leaving their practice. We all admit that. There is no question about that.

Mr. BAILEY. And for that reason I contend that you can get proper men for the present salaries, because we have been able to secure proper men at the present salaries, just as we secure proper men for the Senate, although the majority of the Senators here make a personal sacrifice to come here, so far as dollars and cents are concerned.

Mr. RAYNER. It is the exception to the rule.

Mr. BAILEY. The exceptions are so numerous that we have no vacancies in the Senate. [Laughter.]

Mr. RAYNER. I am not talking about the Senate. I am talking about the judiciary. I do not see any connection between the Senate and the judiciary. We are not discussing, I respectfully submit to the Senator from Texas, the adequacy of our own salaries, and I see not the slightest connection between fixing the salaries of judges and taking up the question as to whether we are adequately paid. The only question here is as to whether the judiciary are adequately paid. I say there are exceptions to the rule where men make these sacrifices. I repeat it; and it has been said over and over again, without contradiction, that it is a difficult thing to get men to go on the bench, because you do not pay them a sufficient salary. I stand on that statement, inconsistent or not.

The difficulty exists in every State. Men say, "We can not afford to go on the bench, because you do not pay us a sufficient salary." If you raise the salaries, you will get a better class of men. Men are bound to support their families; they must look to that. I can not understand the argument that by increasing the salary it will not help us at least to get a better class of men than by lowering salaries or paying inadequate salaries.

I may be wrong about that, but that has been my experience. That has been the experience in every State, where lawyers have said, "I would like to go on the bench, but I can not take the salary; I can not support my family upon it, and I can not leave my practice. I would like to have the honor of being on the bench, but I can not afford it." I have known that to occur over and over again.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Idaho?

Mr. RAYNER. I do.

Mr. BORAH. Does the Senator from Maryland know of any State where the bench itself has decreased in standing or integrity or character by reason of that condition of affairs?

Mr. RAYNER. Oh, no; I do not. But that is a statistical observation that really does not affect this argument. The question that we are to decide is whether a district judge ought not to get $9,000 a year, or at least $8,000 a year, as provided for in this bill. I think it is a petty warfare upon the judiciary of the United States to cut the district judges down to six or seven thousand dollars a year.

I want to say one word to the Senate, and that is this: I have an idea about this that the day will come when we shall have a much better bench, perhaps, in certain localities than we now have, when all these appointments will be taken away from the President of the United States. I do not know that it is any discovery of mine. I think I spoke to the Senator from Texas about it some time ago; but I think we have a right to take away from the President of the United States the appointment of either circuit or district judges under the Constitution and place their appointments in some other hands, say, in the Supreme Court of the United States. I refer the Senate to Article II, section 2, and subsection 2 of the Constitution, which gives the President of the United States the right to appoint judges of the Supreme Court, and it stops there. It stops with the judges of the Supreme Court, and it says:

> But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

I do not claim any particular credit for this discovery. I thought, perhaps, at first that I was wrong, but I have spoken about it to two or three other lawyers and they seem to think I am right. I think we could take every one of these appointments away from the President. I do not think, as a rule, the President of the United States knows what sort of judges to appoint. I know the Senator from Texas will agree with me on that proposition. I think the judges that are appointed are not men, as a rule——

Mr. BAILEY. That is true of some Presidents. [Laughter.]

Mr. RAYNER. Some Presidents; yes. Does not the Senator agree that it is true of some of the present judges?

Mr. BAILEY. I responded to the Senator's suggestion that the President did not know what kind of a man ought to be made a judge, and I said that that statement was entirely true of some Presidents.

Mr. RAYNER. It is true of some, and it is true of a good many of them. I will tell you why I think it is true of a good many of them. When there is a vacancy on the bench, who comes here and asks the President for the appointment?

Suppose a man to-day, for instance, asked me to appoint a medical board here. To whom would I go to find out the principal surgeons and physicians in Washington? I would go to the medical society. I would go to the men high up in the medical profession. In selecting judges, does the President of the United States, as a rule, go to the bar associations of the different States or to the leading lawyers?

Mr. BAILEY. No; he goes altogether too frequently to the corporations.

Mr. RAYNER. Well, then, that answers my question. If, as a rule, he goes to the corporations, then he goes to the wrong quarter to get proper judges on the bench.

Mr. TILLMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from South Carolina?

Mr. RAYNER. Yes.

Mr. TILLMAN. If the Senator from Maryland acknowledges—and I think he must acknowledge—that corporations have more influence in appointing judges than anybody else, why is he so anxious to increase their salaries when, possibly, they are already on the pay rolls of the corporations?

Mr. RAYNER. There are a great many judges on the bench who, I apprehend, have not been appointed under the influence of corporations.

Mr. TILLMAN. Undoubtedly.

Mr. RAYNER. I suppose that there are a great many of them. We have in the State of Maryland a judge who is able, a man of the highest possible honor and integrity, whom no corporation appointed and whom no corporation could influence, and I know he will earn every dollar of $9,000 a year. I know one federal judge after another—I do not want to make any invidious distinctions, however, but the statement of the Senator from South Carolina does not apply to all the judges of the circuit bench.

Mr. TILLMAN. I do not say it applies to all.

Mr. RAYNER. If it applies to some of them, why give all of them an inadequate salary because some few of them ought not to have been appointed upon the bench?

Mr. BEVERIDGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maryland yield to the Senator from Indiana?

Mr. RAYNER. Yes.

Mr. BEVERIDGE. I merely call to the attention of the Senator from Maryland the statement he made as being in approval of some portion of the statement made by the Senator from South Carolina, the latter part of which statement was that the judges may be on the pay rolls of corporations. I take it the Senator did not mean to agree with that.

Mr. RAYNER. Well, in discussions of this sort I do not desire to individualize. I have my opinion. I doubt very much whether any judge upon the federal bench is upon the pay roll of a corporation. He might be, but I doubt it, and I would hate to think so.

Mr. BAILEY. Inasmuch as I first suggested that the President did consult corporations in making judicial appointments, I want to say that I do not believe that any judges are on the pay roll of a corporation, and I think my friend from South Carolina ought to withdraw that statement.

Mr. TILLMAN. I did not assert it. I stated that I had such a suspicion, and I will not withdraw it.

Mr. BAILEY. Well, Mr. President, the Senator from South Carolina is sometimes more suspicious than he ought to be. I think it is a bad statement to make; but I stand by the statement—and I think neither the Senator from Maryland nor the Senator from Indiana will controvert it—that the corporations have for twenty years been extremely and especially active about the appointments of federal judges.

Mr. RAYNER. I agree entirely with the Senator from Texas, and that is what I said just now when the Senator interrupted me. He said, as I understood him, that there have been few Presidents—there have been a little more than a few—who did not consult the corporations in judicial appointments——

Mr. TILLMAN rose.

Mr. RAYNER. Does the Senator from South Carolina want to ask me a question?

Mr. TILLMAN. No; I was not undertaking to ask the Senator any questions. I simply want to make my own position clear.

Mr. RAYNER. It is perfectly clear, I think.

Mr. TILLMAN. I have known of instances, when I was governor of South Carolina, in which a federal court was apparently so much the tool of corporations with which I was battling for taxes that if the judges were not on their pay rolls they accepted special coaches in which they went about. To every intent and purpose they were as much the tools of the railroads as if they were still on their pay rolls.

Mr. RAYNER. Mr. President, I know and can give instances, when a federal judge was to be appointed, of corporations coming here—I will not say in person, because that is not properly applicable to a corporation—but through their attorneys, and using all the influence they could. The Senator from Texas knows that. I know it, and we know exactly how long it has been going on.

There is one other thing that it is proper for me to state, and that is that I have known instances where lawyers who have been attorneys for corporations during the whole of their professional career have been put upon the bench, and they have turned out to be as just and honorable judges, without any regard or favor for corporation influence, as any men you could put upon the bench. I have known that to take place. You can give instances and I can give instances of attorneys for corporations who, the moment they were on the bench, whenever there was any doubt about a case would throw the case against the very corporations they had represented before they went on the bench. You can not individualize in these cases.

But let us get back to the question. Now, why not pay a fair salary to a district judge or any other judge who has devoted his whole life to his profession? He is a man of honor, of learning, and of capacity, who gives the whole of his time to his judicial duties regardless of what his practice has been before, regardless of whether he makes a sacrifice or not. Is he not worth $9,000 a year to the Government of the United States?

I may be wrong, and the Senator from Texas may be right. We are, of course, all entitled to our judgment upon this question. I am only speaking from my experience, but I believe that if you will give them better salaries you will have better judges. I believe it is the inadequacy of the salaries that keep a large number of the profession from accepting the honor that they would otherwise be willing to take.

I think, Mr. President, that it is the duty of the American bar to send to the bench the very best men there are in the profession in the United States. The time will come, then, when we can boast of good judges—not in sections, for we ought not to have good judges only in sections. There ought not to be a good judge here and a bad judge there.

The Senator from Texas has stated frequently—and I agree with him—that there are judges upon the federal bench who ought not to be there. I know that to be a fact. I hope the day will come when they will go off the bench, and I hope the day will come when we will give men a salary that they can do a little more than live on. Of course, I do not go into details, as the Senator from West Virginia did. But take this proposition: A man ought to be able to save a few thousand dollars, and if we pay the judge at the rate of $9,000 a year, ought he not be able to save a few thousand dollars a year to insure his life for the benefit of his family? Is it asking too much of the Government of the United States to permit a federal judge to save $2,000 a year to effect an insurance that would go to the benefit of his family after his death? He should not be compelled to receive a salary that he is merely able to live upon and not be able to save a dollar beyond the actual salary that is paid him.

Mr. TILLMAN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maryland yield to the Senator from South Carolina?

Mr. RAYNER. Yes.

Mr. TILLMAN. I was going to suggest to the Senator from Maryland that if he can devise any scheme by which we can get high and incorruptible men on the bench, such as we ought to have there, I would gladly pay them $100,000 a year, and I believe the people of the United States would save millions by doing so.

Mr. RAYNER. I can devise a scheme in one moment. When the President of the United States has the appointment of a judge, let him do what the Supreme Court perhaps would do under the section of the Constitution to which I have referred—let him bring in, not corporation lawyers or lawyers who have an interest in forwarding the appointment of a particular judge; but let him call upon the honor, the integrity, and the intelligence of the American bar to give him a judge, and he will get judges that will be an honor to the Nation and well qualified to sit in judgment upon all the great and complicated questions that now come before the federal judiciary in the performance of their duties. There is no trouble about that at all. The President of the United States can always appoint a good judge if he wants to do so. If he does not, it is simply because he does not want to do so.

There have been men appointed judges who knew nothing about the law. The Senator from Texas and I know what a difficult problem it is to argue questions of elementary and rudimentary law before a judge who never studied his profession before he got upon the bench and never studied it while on the bench. You want the highest and the best order of material that you can get. Make no mistake, Mr. President, you can hardly put these salaries too high.

This is the result of my own experience. It may be an experience different from that of other Senators here upon the floor, but my belief is that the higher we make the salaries the better judges we will get upon the bench, provided we couple with that a requirement adverted to both by the Senator from Texas and the Senator from South Carolina, that when the President has the appointment of a judge, let him consult the bar associations of the different States. When he has the appointment of a judge in Maryland, let him go to the bar association of Maryland, and I will guarantee that they will give him a judge who can not be influenced in the performance of his public functions.

Mr. McLAURIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maryland yield to the Senator from Mississippi?

Mr. RAYNER. I do.

Mr. McLAURIN. Does the Senator know of any lawyers who have been tendered positions on the federal bench who have declined them?

Mr. RAYNER. Well, I will say to the Senator from Mississippi that I have not had a very large experience with the federal bench. Our federal practice in Maryland is rather limited; but I know man after man who has been tendered a position upon the state bench who has declined it because he was unable to accept it at the salary provided.

Mr. McLAURIN. My question was directed to the federal bench.

Mr. RAYNER. I do not know enough about the federal bench, personally.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maryland yield to the Senator from Texas?

Mr. RAYNER. Yes.

Mr. BAILEY. I am willing to take his State as a test, and I will ask the Senator from Maryland if, notwithstanding the declinations of some who could not afford the position, the State of Maryland was not still able to secure upright and excellent judges for her courts?

Mr. RAYNER. As good as any in the country.

Mr. BAILEY. Mr. President, that illustrates that what might be a salary sufficient to induce one man may not be a salary sufficient to induce another man. That would be just as true if you doubled the salaries as if you left them where they are.

Mr. RAYNER. That illustrates the exception, and not the rule. I must insist upon the proposition that it does not illustrate the rule; it illustrates the exception. We have had men in Maryland who have sacrificed their private practice in the State for the honor of being on the bench. I know one of the greatest judges who ever sat in a Maryland court, who died and left his family in poverty, and I could name several others. I have always thought it a great shame and an outrage that such things should happen.

Mr. BAILEY. But he left his family the inheritance that an upright judge bequeaths, of an unsullied name. That is worth all the money that misers ever gathered in the history of the world.

Mr. RAYNER. But families can not live upon honor.

Mr. BAILEY. Mr. President, that is the curse of this day, that a man does not think he has done his duty unless he leaves his children a fortune. Now, that is precisely the tendency which I so much fear. It used to be that if we could educate our boys and give them a good name to start with in the world, we felt we had done our duty. But now, unless we can give our boys fortunes with which they may establish banks or organize factories, or unless we can give our girls a dower which may attract some brainless nobleman from the other side of the ocean, we feel that we have not done by them all that we ought to have done.

I believe that American citizen who can educate his children and start them in the world with that advantage which so many great Americans were denied, and then can give them the name that a judge, however poor he may be, leaves them, or the name that a great Senator will leave them, has done more for them than if he left them a great fortune to tempt them into a thousand dissipations, destroying health, character, and standing. I am sure the Senator from Maryland does not disagree with me when I say that a judge who serves a lifetime on the bench, helping to form the jurisprudence of his State and immortalizing his name, has done more for his family than he could have hoped to do in the way of a bequest to be measured in dollars and cents. I do not think it a misfortune that the Maryland judge, of whom the Senator spoke, died poor if he left his family the inheritance of a great name.

Mr. RAYNER. It is very difficult though, I apprehend, Mr. President, with all the inherited honor that they may receive to feed and clothe themselves on honor. [Laughter.] That is my trouble about it. I agree with every word the Senator from Texas has said, and while I should like to inherit the honor of my ancestors, I should like them to leave me a little money so that I could enjoy the honor. [Laughter.] I would take, perhaps, a little honor and a little more money.

I do not believe in the accumulation of large fortunes. The Senator from Texas and myself entirely agree upon that proposition. No judge who gets $9,000 a year, and has nothing else, could leave a large fortune to his family. I think it is a man's duty to leave something to those who survive him. I think a man's duty to his children is just as great as is the duty of the children to the father, and I think that a man ought to strain every purpose in life to accumulate a sufficient sum of money so as not to leave his family in abject poverty and destitution. Take a man who goes upon the federal bench without any means, without any resources, without any fortune, and gets $9,000 a year. How much can he save? How much can he leave to his family? Why draw the line on him? Why not let him be comfortable while he is a judge and not be pressed from morning to night to pay the expenses of his family? That is my idea; and I think, Mr. President, that is the proper idea.

Mr. BAILEY. Mr. President, if the Senator from Maryland will permit me——

The VICE-PRESIDENT. Does the Senator from Maryland yield further to the Senator from Texas?

Mr. RAYNER. Yes.

Mr. BAILEY. If a judge when appointed to the bench has saved nothing, then he does not make any great sacrifice to take the place at the present salary; and if he has been able to save something, all he needs to do is to invest it and let his children inherit that.

Mr. RAYNER. Let me say to the Senator that I know plenty of men who are making large fortunes out of their practice who are not only spending every dollar they earn, but going into debt besides. The profession, as a rule, knows very little about finance.

Mr. BAILEY. If the American Congress is to legislate for men who need guardians, then I confess I am not advised about what kind of a law we ought to pass.

Mr. RAYNER. A great many men, Mr. President, require financial guardians, but do not require legal guardians. I have known men of the highest ability in their profession to spend every dollar of money they made, but they did not require to be put in the custody of a guardian by any means.

Mr. BAILEY. They had a right to do that if they earned it, though I do not really think they had a right to go into debt. I think that a man who is earning enough to support himself and family ought not to go into debt. But waiving that, I go back to the very kernel of the argument, which the Senator from Maryland has stated when he said he wanted less honor and more money. That is the curse of the American Nation to-day.

Mr. RAYNER. Mr. President, there is no one in this world who wants more honor than I do. I want all the honor that a man can have and give; but what I say is that a man's family would prefer that their ancestors should have less position and honor and bequeath them something to live on, than to have the highest positions of honor and be left in absolute starvation and destitution perhaps. That is my proposition. The Senator is mistaken, and has misconstrued the phrase that I used.

Mr. BAILEY. Mr. President, I wonder, if he could choose, whether the Senator from Maryland would choose the honor of Jefferson's name, coupled with the insolvency of that great statesman, or would take the name of a Vanderbilt, coupled with the patrimony. The Senator from Maryland is mistaken. He does not himself really know what he does think about that question. I do him the honor to say that he believes a good name worth more than all the riches of the world; and he has exemplified that both in public and in private life.

Mr. RAYNER. I was not speaking of a good name. I was speaking of honors, and not honor. I was speaking of the mere empty honor of a judge. Everybody, of course, wants to preserve a good name and leave a good name.

Mr. BAILEY. I will say "a great name."

Mr. RAYNER. There can be no difference of opinion, I apprehend, on that point between the Senator from Texas and myself.

Mr. BAILEY. I will say "a great name," for there is a difference between the two. I have known men never heard of beyond the corporate limits of the villages where they lived who left good names, but of course not great names. So I will change the word "good," to meet the argument, and say "great." I deny that the Senator from Maryland would prefer great riches as against a great name. I deny that he would give even a part of a great reputation to gain a great fortune; but if he would, then I can understand the temper of the American people as manifested in this body. I can understand why it is that men are no longer content with the honor, but they want more salary. But that reverses all of my opinions about the American people. I have always been taught to believe that when a man, at the end of a long public service, comes to lay down his office and is preparing to be gathered to his fathers, it was enough for him and that it was enough for his children and his children's children that he left them a stainless reputation, although he bequeathed to them no dollar of gold.

Perhaps we are to change all this now. Perhaps we have determined to pay men in dollars instead of in honor. If that be the measure, Mr. President, it ought to be twice nine or even three times that much, because, if we are to compensate in money instead of in honor and glory, then I believe the salary of Senators should be $30,000 rather than $7,500. But if men love money more than they do glory, then there is great danger that they will betray their country in order to line their pockets.

I refuse to believe that the American Republic has reached that point yet; I know it is not as it once was, wedded to glorious traditions and high ideals; I know it is not now as it was in the days of our fathers, when the honor was everything and the salary was nothing; but I had not believed that we had passed so far beyond those days that a man would stand up in the Senate and say he was willing to take less honor if he could have more money.

Mr. FORAKER. Will the Senator from Texas allow me to ask him a question?

Mr. RAYNER. If the Senator from Ohio will excuse me for a moment, I do not want that to go to the RECORD. I never said that, and what I said can bear no such construction. If I said it, it does not at all bear the meaning the Senator from Texas has put upon it.

Mr. BAILEY. The Senator——

Mr. RAYNER. I was speaking of the honors that a man held, which is quite different from the honor and integrity of his public or private life.

Mr. BAILEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Texas yield to the Senator from Ohio?

Mr. BAILEY. I will yield in a moment.

The Senator from Maryland said exactly what I quoted him as saying, and I was commenting upon it as an evidence of the decay of what I believe to be a wholesome public sentiment. I did not indicate that the Senator from Maryland meant to say that he weighed the personal integrity of the man against the dollar, and I have not said anything susceptible of that construction. Now, I will hear the Senator from Ohio.

Mr. FORAKER. I do not imagine the Senator from Maryland lacks appreciation of honor more than the rest of us; but the question I want to ask the Senator from Texas is whether he thinks a judge will leave for his family any less honor working on a salary of $9,000 than if working on a salary of $8,000?

Mr. BAILEY. Yes, Mr. President. I believe the highest honor is with the man who serves his country most unselfishly and with the least regard for the salary he receives. [Applause.] And I believe that in just the same proportion that you increase his pay in money you decrease his pay in honor and in glory. That is my opinion, and I believe that events justify it. Year after year we have been increasing these salaries; and every time we hear the same argument, that men can not live upon the salary. There was made, only a year or so ago, an increase of the salary of all these judges, including the judges of the Supreme Court.

Mr. President, what salary was paid to the greatest judge

that ever adorned that bench, or any other, in the history of the world? I do not subscribe to the political doctrines of John Marshall; my opinion is that he did more to change the form and structure of this Government than any twenty men who ever lived under it, and yet, dissenting utterly from the political opinions of Marshall, I yet can pay him the just tribute of saying that he was the greatest legal mind that ever illustrated the jurisprudence of this country, or any other country, in the history of the world. Was it the salary that induced John Marshall to become the Chief Justice of the United States? No thought of the salary inspired him to take that exalted station. Historians say it was a political consideration. But I believe that, even though moved by a political consideration, John Marshall still believed that there, and perhaps there alone, he could render to his country the service for which his great intellect qualified him. Senators will recall that in the election of 1800 the Federalist party was driven from power in every department of the Government.

Jefferson or Burr was to be chosen President, because, having received the highest number of votes, the House of Representatives was required to choose between them. Whichever it might be, Jefferson or Burr, it could not be a Federalist. The election returned a majority, then called Republicans, now called Democrats, to the House of Representatives, and made it certain that the political complexion of the Senate was to change with the incoming Congress and administration. Thus, driven from every other department of the Government, the Federalist party took refuge in the judiciary, and John Adams appointed John Marshall to be the Chief Justice of that great tribunal.

It is immaterial to me whether he sought it because he loved the work or whether he accepted it because he could do the work of a patriot and a Federalist. It is still certain that he did not accept it for the sake of the salary.

Call the roll of that tribunal, Mr. President, and it will be found that no man ever accepted a commission to sit there who inquired about the size of its salary; and I do not believe any man who will ever be fit to sit there will care about the size of the salary, except only to know that it is enough to support him in decency and in comfort; and when Senators like the Senator from Maryland say we must pay our judges what they can earn at the bar, or approximating it, or whenever they make the salary a consideration for the acceptance of the office, they degrade the judiciary of this Republic.

Mr. President, I hope that time will never come; but if we persist in thrusting these increases on the judges they will fall into the habit of saving money, which is not the great lawyer's habit—as the Senator from Maryland has said—or else they will fall into the habit of spending it upon these gorgeous entertainments about which we hear so much, and when they do that what time will they have to study their cases or to write their opinions? But worse still, give them more money to spend, and it takes more of their time to spend it, and as you increase their scale of living you intensify the extravagance of all who watch them and who feel like following their example.

So it is that this deadly taint of extravagance and greed permeates every artery of our national life. That is what I protest against. I would prefer to see the men who hold the great commissions of the American people in executive, judicial, and legislative station unable to indulge extravagance, because, Mr. President, the simple life of a great man is a perpetual blessing to the people, while a life of extravagant indulgence is a perpetual curse to a Government like ours. We have nothing to do with individual extravagance and individual follies, provided they keep away from the criminal statutes of the country. I leave them to go their way, but I protest against the notion that men shall seek or accept the great offices of this Republic with any view either to the greed that wants more money or to the extravagance that needs more money.

Mr. TELLER. Mr. President, we seem to have drifted somewhat from this bill, and I want to say a few words about the salaries of judges. I shall not attempt to answer the Senator from Texas [Mr. BAILEY]. I agree with very much of what he said about the extravagance of the age. I think it can hardly be said, at least in the western country, where the price of living is somewhat higher than it is in the East, that we are encouraging any extravagance or tendency toward undue display.

The committee of which I happen to be a member received from the Judiciary Committee a list of amendments that they proposed to this bill, and, I believe, so far as the circuit judges are concerned we have accepted the proposition that the committee made to us.

Mr. BACON. Will the Senator permit me for a moment?

Mr. TELLER. Certainly.

Mr. BACON. I wish, as a member of the Judiciary Committee, to say to the Senator from Colorado that that recommendation was accompanied by another which excluded from the enjoyment of the judges hereafter the right to payment of their expenses when away from their homes to the amount of $10 a day.

I desire to say that, as far as I am concerned, my support of these amendments in the Judiciary Committee was based on that consideration and that alone. I thought that if we would cut off the $10 per day we could afford to raise the salaries. Whether others were influenced by any such consideration, it is not for me to say; but it is due to myself, as a member of the Judiciary Committee, who agreed to that report, to say this much.

Mr. TELLER. I do not think it worth while to consider that proposition here, because we are now discussing the question of district judges and not circuit judges. We have already passed on the circuit judges.

Mr. BACON. If the Senator will again pardon me, while it is true in a greater degree in the case of circuit judges than of district judges, the district judges also have the benefit of that provision when out of their districts; and the list which the Senator from Wyoming has been furnished by the Secretary of the Treasury shows that it is generally availed of.

Mr. TELLER. I have no doubt the district judges when they perform duties which come within the statutory provision by which they can be specially compensated take advantage of that statute and get their pay. There is not much coming to the district judges under this provision of the law which has been mentioned. They are not called upon to go much out of the State. When they are, the Congress has in its wisdom provided that they shall be paid, and I suppose nobody will doubt the propriety of that course.

I will say one word about the federal judges in the West who have come within my knowledge. I have had the fortune to live in the eighth circuit for pretty nearly fifty years. I was there before the circuit was formed, and I have been familiar with the judges on that bench from the time we were incorporated into the eighth circuit, which is thirty-odd years ago now, until the present time. I think I can say without any question that it costs the judges west of the Mississippi River and in the eighth and ninth circuits at least 25 or 30 per cent more to live than it does the judges in other parts of the country; and in some sections even more than that.

As a member of the legal profession I have been brought in contact for many years—nearly fifty years—with the occupants of the bench, and I want to enter my protest here against the suggestion that it is a possible thing that any federal judge is on a corporation roll. I am too well acquainted with the judges of my section of the country to believe that it is possible. I am too much impressed with the federal judiciary of this country to believe it possible in other sections of the country. I know there are individual cases where it has been said they have fallen under the domination of corporations, just as it has been said a hundred times that the Senate, as a body, has fallen under the control of corporations.

I have seen articles written about Members of this body, published in the public press, published in the magazines, that I knew were as false as they could possibly be, with reference to their connection with corporations.

Mr. President, the Senator from Mississippi asked the Senator from Maryland, "Have you ever known anybody to decline a federal position because of the salary?" I have known more than one case where a federal judgeship has been refused, not the district judgeship alone, but the circuit judgeship in the eighth circuit, by men who were competent to fill the place and would have filled it with great credit. I do not mean to say that we did not get just as good a judge after the refusal as we would have got if the first offer had been accepted.

Mr. McLAURIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Colorado yield to the Senator from Mississippi?

Mr. TELLER. Certainly.

Mr. McLAURIN. The Senator from Maryland was making the argument—that is what I understood to be his argument—that because of the small salaries we were not getting as good judges as if the salaries were raised. Pertinent to that, as I thought and think now, I propounded the question to him whether he had known of any lawyer who had refused an appointment as federal judge on account of the salary. I think it is a very pertinent question, and I do not think it is overturned by the statement made by the Senator from Colorado.

Mr. TELLER. I will not have any controversy with the Senator from Mississippi on the subject. I simply state what I

know, and I know that in the West to-day you can not get on the bench of many of the States the best legal talent of the country because of the paucity of pay.

Mr. McLAURIN. I did not mean to say that what the Senator from Colorado said was not true, but I say, taking that as true—and I know it is true, else he would not have made the statement—it does not overturn the argument that is drawn from the fact that lawyers, as a rule, do not refuse federal appointments because of the salary. I say it does not overturn it for the very reason that the Senator from Colorado has just stated, that in the instances to which he has referred, where he has known lawyers to refuse the office because of the inadequacy of the salary, he does not pretend that just as good lawyers and just as good jurists were not gotten in place of those who had refused to accept the appointments.

Mr. TELLER. Mr. President, I do say that in the West you can not get on either the federal or the state bench the most prominent lawyers in the section of country. Perhaps you could not do it if you raised the salary to the enormous sum of $9,000 a year. I am not contending that we should put up the salary so that the leader of the bar in a State will want to go on the bench. A man who is offered a judgeship, who has due respect for the profession to which he belongs, might have to inquire whether he could live on the salary, and would act according to his ideas of what he ought to do; whether he would leave for his family something at his death, if there should happen to be minor children and a widow. I think he has a right to consider those things. If the Government of the United States, wasting millions and millions of dollars a year in things of no value to us, should as a nation undertake to say it will not pay federal judges sufficient, at least, to give them a support such as they may think they are entitled to, according to the way in which they have been brought up and educated, I think it is pretty small business.

Mr. President, the whole amount that we shall appropriate in this bill if we give them every dollar that the committee suggests that we do give them in this bill is a mere bagatelle compared to what we waste every month in the year on appropriations of money that are of no benefit, but an absolute injury to the country. A country that can spend a hundred and some odd million dollars on its navy and a hundred and some odd million dollars on its army and not go into bankruptcy, and put $100,000,000, without winking, into the Philippine Islands—a thousand million dollars in ten years—ought not to haggle a great while about the salaries of the judges.

Mr. President, I shall support the report of the committee as it came from the Judiciary Committee. The Judiciary Committee put it at $9,000. The Appropriations Committee put it down to $8,000. The Senator from Ohio proposes to return it to what the Judiciary Committee reported it. If we can not get $9,000, I shall be glad to get $8,000; but I do think it unjust to say that the federal judges of this country shall serve for $6,000 a year. In the West $6,000 would not pay the cheapest kind of a lawyer who had any practice. We have had good federal judges in the West. I regard it as important to the public service that we should give them a compensation adequate to the service they render the country. I do not think we do that in this bill, not even now.

Mr. FULTON. Mr. President, I had hoped that the consideration of this measure would be concluded long before this, as I have been very anxious to have considered a bill of which I have charge, commonly known as the "omnibus claims bill." But I see we are not going to reach it to-night. I suppose I might as well contribute my portion of the delay.

I think the discussion has not been without profit. I believe I have as high a respect and veneration for the courts of this country as any living man. I believe there has been no better judiciary in the history of the country than we have to-day. I believe it has never been presided over by men of higher character and stricter virtue than are they who compose our judiciary to-day. I have neither sympathy nor have I patience with the insinuations that are constantly being made in public speeches and in the public press against the character of our federal judges.

I confess I was shocked and grieved to-day when the insinuation was made on this floor that there are members of the federal judiciary who are under the pay of corporations or of interests other than that of the public. I can not believe that the Senator who made that remark considered it well. I hope he did not. In any case, I denounce it as a base slander on the judiciary of this Nation.

Mr. President, I deplore that such remarks should be made, and I am sure there is neither foundation nor justification for them. In no branch of the public service is there higher character than in the federal judiciary. At the same time, Mr. President, I fully indorse the sentiment expressed by the Senator from Colorado—and it has been uttered by others—that we can not compensate these men in money or in dollars for the work they do. They do not expect to be compensated in money. The greatest compensation that they derive is from the consciousness of the honorable and efficient performance of duty. The value of the services the Government gets from an honest judge or an honest official is always greater than that which it pays in the salary.

We can not escape knowledge of the fact that the greatest inducement for men to enter into public life, to accept positions on the bench, in Congress, or elsewhere, is the distinction and the honor which a faithful discharge of the duties of office brings to him and to his family; and we all realize and know that he can give his family no greater inheritance than the knowledge that he has acquitted himself honestly, capably, and efficiently and has been a good, faithful public servant.

Mr. President, patriotism, fidelity to duty, can neither be compensated nor measured in dollars. Why do Senators talk of the value of the services of these officials? Is it a question of values? No. Honesty, efficiency, capability, and patriotism in the public service have their rewards, but they are not in riches, except in so far as a consciousness of duty faithfully performed on the one hand and a just appreciation of fidelity to a sacred trust on the other constitute riches. In my judgment these things constitute at once the greatest earning that one may accomplish for himself, and the most splendid heritage he may transmit to his posterity. The value of the service that Washington or Marshall or Lincoln rendered this Nation could not be computed in dollars, but who would not prefer to inherit the estate of one of them than to succeed to the wealth of the greatest Napoleon of finance that modern times have produced?

Nevertheless, Mr. President, I have believed that we are going too far in the increase of salaries all along the line. I believe that we went too far in the increase of the President's salary. I voted to insert the amendment reported by the committee, placing the salary at $100,000 for the President. Unfortunately I was called out at the time when the vote was taken on the amendment reducing it to $75,000, which was lost, and therefore I did not have an opportunity to vote as I would have voted, to substitute that sum for $100,000. I felt that some increase was due, and rather than that there should be none I voted for $100,000, while I believed it was too much.

I believe that the increase proposed for the judges is too great. I wish most frankly to confess that I do not agree with many of my colleagues in the statements they have made about the earning capacity of lawyers. I know something about what lawyers earn, and I know that two-thirds of the men who are now on the bench to-day are receiving more in salary than they ever actually cleared in their law practice before they went on the bench.

I speak about what they cleared. They may have earned in fees considerably more than that, but out of that they had to pay their office expenses, their clerk hire, their assistants, and all that. I think most lawyers will agree with me that the average lawyer, and I mean the average good lawyer, is doing very well and has a very excellent practice when he is clearing above his office expenses, clerk hire, and all that sort of thing $10,000 a year. Those gentlemen who are earning $50,000 a year, or who could earn $50,000 a year, have been mighty scarce in the parts of the country where I have lived.

Mr. PILES. The Senator lives in Astoria.

Mr. FULTON. My friend to the right says that I live in Astoria.

Mr. WARREN. Where is that?

Mr. FULTON. It is not in Wyoming. [Laughter.]

Mr. WARREN. Thank you.

Mr. FULTON. And I thank God for it. [Laughter.]

Mr. WARREN. I agree with the Senator.

Mr. FULTON. It is not in Seattle, although Seattle, as everybody knows, is the very center of the universe. It is that one particular place, no doubt, Tom Marshall had in mind when he said that "the sky came down evenly all around;" hence it conclusively followed that it was the center of the universe. [Laughter.]

They have good lawyers in Seattle, and one of the most distinguished of them is my good friend here on my right. Of course he does not pay me anything for saying that. I say it because I know it to be a fact. But I say, in Seattle the lawyers who are earning $50,000 a year are very few. I know the gentlemen who are federal judges on the Pacific coast, and I know that none of them ever earned $50,000, or anything approaching $50,000, before they went on the bench, and they would not be earning it to-day if they were off the bench, and yet they are the equal in ability, integrity, and all that goes

to make a splendid judiciary of any like number in any district in this country.

Mr. PILES. Fifty thousand dollars altogether?

Mr. FULTON. No; clear.

Mr. President, I was willing to make a reasonable advance, because I realize that the cost of living has advanced of late years. I was willing to make an advance to $8,000. I think it is a reasonable one. I voted for it on the other proposition just submitted. I agree with the Senator from Ohio [Mr. FORAKER], that there is no reason for any considerable distinction between the salary of the district judges and the salary of the circuit judges. I would make a slight difference, perhaps of $500 a year, simply because of the position. I do think that the higher the position the greater the dignity, and it should be recognized by some difference in salary, but not much.

The district judge to-day does more work as a rule than the circuit judge. He is doing all the nisi prius business, trying all the cases in the first instance. I do not suppose there is a circuit in which the circuit judge does any of that business to-day. Besides the district judge may be called to the court of appeals.

I have been embarrassed to know just what vote I should cast on the amendment of the Senator from Ohio. I should like to see the salary of the circuit judges fixed at $9,000. I think that would be nearer right. Then I would put the salary of the district judges at $8,500. That would be my idea. I think we are really going further than we should go in the way of increase of salary.

Mr. President, I do not like to use the word here, but it does seem to me that there is abroad a spirit of extravagance in the way of increase of salaries. We are told to-day that we can not have a river and harbor bill because of the depleted condition of the Treasury; yet all over this country, in every commercial community, the cry is going up for appropriations for the improvement of our rivers and harbors and our highways. We can not accord them. Those who are in charge of the appropriation bills tell us we must not yield, because we have not the money with which to do it.

Then, Mr. President, if we must study economy in matters of so grave concern to the people as that I have mentioned, ought we not to apply a little of the doctrine of economy to the matter of salaries? Let us make some increase, but let us make a reasonable one.

Mr. SCOTT. Will the Senator yield to me for a minute?

Mr. FULTON. Certainly.

Mr. SCOTT. I wish to ask the Senator from Oregon a question. The salary of a district attorney is forty-five hundred dollars in my State. I do not know whether it differs in different States.

Mr. FULTON. I think that is what it is; at least it is in my State.

Mr. SCOTT. I understand that a district judge, of course, can not take any business in the court. Consequently we are paying the district attorney a great deal more in proportion than we are paying the judge, because he can go out and take other cases than those in the United States court.

Mr. FULTON. The Senator should take into consideration, in the first place, that United States district attorneys really do very little work outside of that office.

Mr. SCOTT. But they may do it.

Mr. FULTON. If they have time, yes; but as a matter of fact, they can do little else than attend to their official duties. But a district attorney is appointed for a term of four years only. He is not allowed to retire on a pension at the end of his service. A district judge and a circuit judge are appointed for life, and after reaching a certain age they are allowed to retire on pay for the remainder of their lives. That is a very great consideration, and there is very marked difference between their situation and the situation of district attorneys.

Mr. FORAKER. Mr. President, the Senator from Oregon has made the remark I wanted to make; that is to say, I wanted to call attention, and with that I am content——

Mr. FULTON. I hope the Senator will allow me to apologize to him. I wish he might have made the remarks, because he would have made them so much better.

Mr. FORAKER. That would have been impossible.

What I wanted to call attention to is simply this, that we have fixed the salary of the circuit judges at $10,000. In addition to that, they are to be allowed the per diem when they are absent from home in the discharge of their duties. Every lawyer here and every Senator who is familiar with the business transacted in the courts knows that the district judges do quite as much work as the circuit judges do. There has always been a distinction in the salaries paid to the circuit and district judges, respectively; largely, as the Senator suggested, because of the rank of the judges. That distinction heretofore has been, I believe, measured by $1,000 per annum. We have increased the salary of the circuit judges from $7,000 a year to $10,000 a year, and have left to them the per diem.

Now, it is proposed to increase the salary of the district judges only $2,000, making the distinction $2,000 in salary, and allowing the district judges, as the law stands to-day, no per diem and nothing on account of expenses when they are called away from home. That, I think, is unfair, and it is more because of the manifest unfairness of it that I have offered this amendment than with a view to fixing the salary at what will be an adequate compensation.

It will be remembered that the district court has exclusive jurisdiction of all criminal cases, exclusive jurisdiction in admiralty, and exclusive jurisdiction in bankruptcy, and that the district judges constantly sit as circuit judges to transact all the nisi prius business of the circuit. The circuit judges sit almost exclusively in our part of the country in the court of appeals.

Mr. FULTON. They do everywhere.

Mr. FORAKER. I think they do everywhere, as the Senator from Oregon suggests.

If it be right for the circuit judges to have $10,000 a year, taking that as a standard which we have already adopted, it seems to me we ought not to make this distinction, cutting the district judges down, or leaving the district judges at $8,000 a year, as proposed by the Appropriations Committee. It is too much of a distinction, and it is because of the injustice manifest in it that I want to correct it if possible. We considered this very carefully in the Judiciary Committee, and when it was decided that the circuit judges should have $10,000, I think every member of the committee felt that if the circuit judges should have $10,000 the district judges should have $9,000, the figure at which we finally fixed their salary.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Oregon?

Mr. FORAKER. Certainly.

Mr. FULTON. Before the Senator takes his seat, I wish to ask him if he agrees with me that the wiser plan would be to give the circuit judges $0,000 and the district judges $8,000, and if he would make a motion to reconsider the vote by which $10,000 was given to the circuit judges?

Mr. FORAKER. I understand the committee felt that $10,000 for circuit judges was none too much. I do not think $9,000 is too much, and if the salary of the district judges be fixed at $8,000, I will feel like it was an unjust discrimination against the district judges to fix the circuit judges' salaries at $10,000.

Mr. FULTON. I call the attention of the Senator to the fact that when the question was agreed to in the Judiciary Committee the Senator, I think, took the position that $10,000 was not too much. At that time the proposition was to cut off all other allowances. As it stands in the bill it is $10,000 with allowances.

Mr. FORAKER. I understand.

Mr. FULTON. Should we not reduce the salary to $9,000 and leave the allowances?

Mr. FORAKER. In other words, here in the Senate, acting upon the report made by the Appropriations Committee, we are increasing the salary of the circuit judges beyond what the Judiciary Committee thought they ought to have by allowing them their per diem, which in some instances amounts, perhaps, to more than $1,000 a year, and we are diminishing the salaries of the district judges. I think they ought to be practically the same. In other words, the distinction between the salaries ought to be only that which indicates the difference in the rank of the judges. I hope the day is not far distant when Congress will abolish one court or the other and give all jurisdiction to either a district court or to a circuit court. There is no necessity and no propriety in having two classes of judges, district judges and circuit judges.

Mr. CLAY. Mr. President, I want to occupy merely one minute to explain my vote.

I have been voting in favor of these reductions, but I am now going to vote to sustain the Committee on Appropriations in fixing the salary in regard to the district judges. I believe we ought to reduce the salary of the circuit judges at least to $9,000, and that motion can be made after the bill goes into the Senate. When the report came to us from the Judiciary Committee, that report, we understood, unanimously fixed the salary of the circuit judges at $10,000 and of the district judges at $9,000 per year. The Committee on Appropriations reduced

the salary of the district judges to $8,000 per year and let the salary of the circuit judges stand.

Heretofore, as was said by the Senator from Ohio [Mr. FORAKER], the district judges in this country have been drawing a salary of $6,000 per annum and the circuit judges $7,000 per annum. The difference between the two was only $1,000. It is manifestly, to my judgment, wrong to fix the salary of the circuit judges at $10,000 and then fix the district judges' salaries at $7,000 or $8,000. Heretofore the margin between the two has been only $1,000 per annum. I find that in many of the States it is as in the State represented by my colleague and myself. Since I have been in the Senate we have provided for courts to be held at four or five different places in the northern district, causing the district judge to travel sometimes 100 miles or 150 miles for the purpose of holding court. I have been informed as to his expenses, but not by him. I have no letter from a judge to read on this occasion, and I am glad that he has not written me any to read. I have understood that his expenses amount to at least from $1,700 to $2,000 per annum.

What do you do? You simply fix the salary of the circuit judges at $10,000 per annum and allow them railroad fare and traveling expenses, and you fix the salary of your district judges at $8,000 and compel them in many instances to go over the different sections of their district and hold court without a single dollar appropriated for the purpose of paying their expenses.

I do not believe we can justify fixing the salary of the circuit judges at $10,000 and of the district judges at $7,000 or $8,000. I hope that the Senate will vote to reduce the salaries of the circuit judges to $9,000 and give the district judges at least $8,000.

Mr. President, just a word further and I am through. I do not believe myself in insinuations. It is a most serious charge, if it be true, that any of the district judges or circuit judges are on the pay roll of any corporation while they are holding the office of judge. If a Senator or anybody else knows of any such judge, he ought to be specified and named, and the charges should be made against him and not made against the judiciary throughout the length and breadth of the country. I believe that the hope and future safety of this Nation to a large extent depends upon an upright, pure, honest, and fearless judiciary; and under no circumstances ought we to reflect upon our federal or state judiciary unless we specify the charge and name the judges, with the proof to sustain the charge.

Mr. HEYBURN. Mr. President, in considering my vote on this question I am not governed at all in any instance by the individual merit of any judge. I am not disposed to inquire as to the relative ability of the officer. The salary is directed to the office and not to the particular man occupying it. If we were to adopt a different rule, we would have a scale of salaries that would be based upon the record of the efficiency, real or otherwise, of each of these judges. We must bear that in mind in approaching this subject.

Some comment has been made as what judges could earn if they were practicing at the bar. In my judgment, that is not a proper consideration in determining this question, because judges come and go, as other men in position, and it might be that there would be an incumbent upon the district bench who, in point of ability or of earning capacity, would rank far ahead of any other judge upon the bench in the United States. I think that emphasizes my suggestion that the consideration is the office and not the particular incumbent of the office.

The compensation paid to judges is not based upon the law of barter or exchange of position. We do not select men in appointing judges because of the extent of their practice as attorneys or the extent of their income. We select them because of the fitness which they possess for the performance of those duties. It is the office itself that we are to consider in determining the question of salaries.

It is a coordinate branch of the Government, comparatively few in numbers, and yet far from being the least important of the coordinate branches of the Government. They control the action of the President of the United States when occasion requires. They stand between the people and the Constitution of the United States, against encroachment upon the rights of the people under the Constitution.

We have never in the history of this country treated the judiciary with the dignity and respect to which it was entitled. The Chief Justice of the United States is the single head of a coordinate branch of the Government, as the President is the single head of a coordinate branch of the Government. Compare the compensation which these offices command. The Chief Justice of the United States is his official title. He performs functions under the Constitution other than those of presiding over the Supreme Court. In the presumption of law he is, by direct provision of the Constitution, the single head. Yet we compare his salary upon the basis of what duties he has to perform, how many hours a day he must work, what his expenses of living may be. That is not a fair basis of comparison. The dignity of the office and its relation to the Government are the only considerations that should guide us in determining the compensation that shall be commensurate with the rank and dignity of the head of one of the coordinate branches of the Government.

Mr. President, as to the district judges, I would not consider the amount of labor that they perform or the number of days they may be occupied in the performance of their duties. Neither would I do that with the circuit judges. Our circuit judges to-day in every part of the country sit almost exclusively in the circuit court of appeals, only occasionally sitting in the circuit and performing the functions which but a quarter of a century ago was their every-day performance of duty.

I think I may say confidently that within the very near future the Congress of the United States will be called on to pass upon the question of the consolidation of the circuit and district courts. A commission that was appointed by Congress to report upon the revision of the laws has recommended that the duties now performed under the provisions regulating the circuit courts shall all be performed by the district courts; that there shall be but one court for the trial, consideration, and determination of all causes of a federal character primarily, and that it shall be called the "district court," carrying with it the jurisdiction that now rests in the district and circuit courts; that the circuit courts of appeal shall be abolished; that the circuit court shall be an appellate court from the district court, and that an appeal shall lie from the circuit court, within certain limitations, to the Supreme Court of the United States. I think I may safely say that there is a very strong sentiment in favor of this change. When that time comes we shall of necessity have more district judges than we have at the present time, because their duties will be largely increased. The circuit judges will be less in number, because they will constitute only an appellate court for each circuit.

Now, in view of this fact, in view of this position that it is the office and not the individual judge, why should we hesitate to make the compensation, if we may term it such, of these judges commensurate with the dignity of their office as well as with the duties which they perform?

Mr. SMITH of Michigan. Mr. President——

The VICE-PRESIDENT. Does the Senator from Idaho yield to the Senator from Michigan?

Mr. HEYBURN. Certainly.

Mr. SMITH of Michigan. Mr. President, I should like to ask the Senator from Idaho what exigency there is which forces this increase of salary upon us now. Certainly there is no constitutional barrier against increasing these salaries as these bills are reported from time to time. The same argument does not apply in this case that applies to the presidential office. Then why should we not wait until the income of the Government is sufficiently well assured to justify us in the expectation that we shall be dealing with a surplus and not with a deficit?

Mr. HEYBURN. Mr. President, the Senator from Michigan asks what exigency exists. It is the accumulated exigency of fairness; it is the accumulated exigency of fair treatment of a coordinate branch of the Government. That is all. The fact that we have erred in the past, or failed in the performance of our duty, should not deter us from the performance of our duty at this hour. I have not taken into consideration the condition of the Treasury of the United States. There has not been, and there never will be, a time when we shall be justified in failing to do justice because we can not afford to do it. The Government of the United States is not in danger of becoming insolvent any more than the farmer is in danger of becoming insolvent because one branch of his industry fails to be profitable and other branches become profitable. So I will drop out of consideration the question of the condition of the Treasury of the United States. We will attend to the condition of the Treasury of the United States when we come to provide for the revenues of the Government. That is the time to consider the Treasury of the United States.

I am not in favor of extravagance in government, but I am in favor of a fair and impartial recognition of the separate branches of this Government in determining the compensation that shall represent not what they could earn to-day, because there is no equality in the amount of duty which each performs, but what the office should represent in the determination of the question of the compensation going with the office.

There is not an officer of the Government that could not live on less than the salary which he gets. If we were to undertake to determine or to weigh the question in the balance of

absolute necessity, we would cut all salaries down, but we weigh them rather with reference to the question of a proper and dignified provision to those who, sacrificing personal interest, give all their services to the country.

What class of officers gives so large a proportion of their time to the public service as do the judges of the courts? There is no holiday for them; their session does not begin or end, as ours does, with a long interval between. A judge is either sitting to hear the cause or sitting in judgment upon it. His mind is charged with the performance of his duty as judge as much when he is in vacation as when he is on the bench. Men who know how the mind of a competent lawyer is constituted know that he is trying his case from the time he wakes until he sleeps, so long as he lives; and if he has the instinct of the lawyer in him, with the judge, actuated by that sense of duty that controls him, it is the same.

Mr. President, I have felt humiliated when I have seen justices of the Supreme Court, from financial necessity, perhaps, walking from their homes to the place of their performance of duty—men who, as I say, stand for the Government itself, who can reach out their hands and stay our action or determine its scope and effect; men who are called upon to weigh the action of every other man who stands to represent the people in the functions of government. What higher duty is there? What duty that carries with it more of the dignity of the Government? Their mouths are closed by propriety; they can not appeal to our committees and present their ideas. They can not go out among the people and ask them what they think they are entitled to. They are sitting there waiting for our voluntary action to relieve them, and are not even permitted by the rules of propriety to suggest a reason or argument or an occasion for the consideration of their rights. They are separated like anchorites from the great body of their fellow-citizens by the rules of propriety; are withdrawn from public participation in public affairs, because, forsooth, they would be charged with violating the proprieties of their office. We set them off there upon the cold and silent throne of justice, where our rights as citizens of this country are adjudicated. So when, therefore, we stand here and quibble as to whether their pay should be $7,000 or $8,000 or $9,000 or $10,000 it is trivial and petty. It is the office for which we speak, the dignity of the Government, and behind it all the question of fairness in the consideration of the rights of these public officers.

Mr. DIXON. Mr. President, I sincerely dislike to weary the Senate with any observations of my own at this time; but, in view of the statement of the acting chairman of the subcommittee of the Committee on Appropriations that the governmental revenues would fall short $150,000,000 for the present fiscal year, it seems to me it is at least inopportune to now propose the increase of salaries for the federal judiciary. For that reason, no matter what may be the argument for or against, this particular time, to say the least of it, is inopportune for increasing salaries, except in the case of the President.

I do not believe in this discrimination that the real yardstick of measurement of the federal judge's salary has really been used. In the first place, the salary is for life. I apprehend that the average federal judge when he goes on the bench is probably 55 years of age. I doubt whether the average federal judge serves over fifteen years, and when reaching the age of 70 he retires with a salary for life, which, I think, would average at least one-half the length of time he serves upon the bench.

If that be true, instead of a United States district judge at this time really receiving $6,000 per annum, in actual results we give him $6,000 a year for the net salary and 50 per cent in his retired pay; and I think it is not too much of an estimate to say that that would give him $3,000 more, or $9,000 a year. I think the average office expenses of the lawyer in practice, counting his rent, stenographer, and office expenses generally, would easily reach $2,500 a year. If you take these figures the district judge, now receiving on the face of the law annually $6,000 a year, is drawing a salary equivalent to $11,500 as compared with the lawyer in average practice. Under the bill as reported by the committee, taking the basis of pay at $8,000 a year, with this same yardstick of measurement it will make the federal district judge's salary $14,500 a year for the actual time he serves. If you adopt the amendment offered by the Senator from Ohio [Mr. FORAKER] to make the salary $9,000 a year, using this same yardstick of comparison, in reality you will pay your district judges $16,000 per annum.

A few minutes ago, while this debate was going on, I sent up to the library to get some tables which would show the highest salaries paid the chief justices of the different States in this Union; and, to my surprise, I find from the list that only six States in the United States at this time pay to the chief justices of their highest appellate courts a salary equal to what the district federal judges receive under the present law, which was passed three years ago. Taking the amendment of the committee at $8,000 per annum, only six States at this time pay their chief justices the same salary, and that does not take into consideration the fact that the federal judges draw their salaries for the entire period of their lives. Taking the amendment offered by the Senator from Ohio, only four States in the Union pay their chief justices the same salary as it is proposed to pay the eighty or ninety district judges of the United States. If you take the real scale of pay, represented by the salary earned while actually in office, plus the average pension paid after retirement from the bench, there is not a single State in the Union to-day that pays its chief justice a salary equal to the present salary of the federal district judges except the great Empire State of New York.

Let us call the roll of States and see. The great State of Alabama pays its chief justice a salary of $5,000 a year. He is elected for a period of not over six years, I apprehend, has to pay campaign expenses, and retires at the end of his term with no pension for life. He receives, as I have said, a salary of $5,000. California pays its chief justice $8,000; Arkansas, $3,000; Colorado, $5,000; Connecticut, $4,500——

Mr. FLINT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from California?

Mr. DIXON. With pleasure.

Mr. FLINT. I want to call the attention of the Senator from Montana to the fact, which has been brought out in the discussion here to-day with reference to whether the people desire to be taxed to pay their judiciary, that in the State of California the question was determined by a constitutional amendment, fixing the salary of our chief justice at $8,000 a year.

Mr. DIXON. That was fixed by a constitutional amendment?

Mr. FLINT. Yes, sir.

Mr. BULKELEY. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Connecticut?

Mr. DIXON. Certainly.

Mr. BULKELEY. The statement the Senator has read in regard to the salary of the chief justice of Connecticut puts the amount as it was fixed some years ago. It has been since changed and increased to $6,000 or $6,500, instead of $4,500.

Mr. DIXON. I am reading from the December issue of Law Notes. But even if Connecticut gives her chief justice a salary of $6,500, we are paying the federal district judges in reality at this time 50 per cent—yes, 75 per cent—more than the State of Connecticut pays its chief justice.

Mr. WARREN. May I ask the Senator a question?

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Wyoming?

Mr. DIXON. With pleasure.

Mr. WARREN. Perhaps I did not pay close attention at the time the Senator amplified his statement. If I remember correctly, he said that by using some kind of a yardstick the district judges would receive some fourteen or fifteen thousand dollars. Will he state how he makes that out?

Mr. DIXON. I make it out in this way: I said a while ago that I think the average federal judge does not serve over fifteen years in actual time on the bench. I took an arbitrary statement that the average federal judge is probably 55 years of age.

Mr. WARREN. Right at that point, I think that might hold true as to the Supreme Court of the United States, but I hardly think it would hold true as to the district judges, because, so far as my observation has gone, they are usually under 55, the age the Senator named, when they enter upon their service.

Mr. DIXON. The statement I made was that if a district judge served fifteen years on the bench and retired at an average period of life and lived on an average seven and a half years after retirement, it would in reality make the present salary of $6,000 a year equal to $9,000 per annum while he was serving actually on the bench. To that I added $2,500 as the general office expenses of a lawyer in active practice, who was fitted under ordinary conditions to be made a federal judge.

Mr. WARREN. The Senator can hardly add that to the salary, because that provides simply what he pays out to others for doing his work. That would hardly be part of the salary.

Mr. DIXON. But the thing I wanted to bring out was that the present salary of $6,000 per annum, now paid for life, was actually equivalent to a lawyer in actual practice earning under these conditions $11,500 per year; that is, if the salary as fixed by the bill as reported is adopted it would be equal to an actual gross earning capacity for a lawyer in active practice

of $14,500; and, if fixed under the amendment of the Senator from Ohio, of $16,000 per annum.

But, for the benefit of the Senate, I want to read the list as to the salaries of the chief justices in some other States. The State of Delaware pays its chief justice $3,000; Florida, $3,000; Georgia, $3,000; Idaho, $3,000; Illinois, $10,000; Indiana, $6,000; Iowa, $4,000; Kansas, $3,000; Kentucky, $5,000; Louisiana, $5,000; Maine, $5,000——

Mr. BACON. I want to say to the Senator, in order that he may be correct, that while I can not now state the figure, I am quite sure the amount of salary paid to the chief justice in Georgia has been raised, though not to the figure that is now paid to the federal district judges. I have forgotten the amount, but I say it is not as much as we pay to the district judges.

Mr. DIXON. It is still not so much as we pay United States district judges.

Mr. BACON. I am quite sure it is below the salary of the United States district judge, but what the exact figure is I have forgotten.

Mr. DIXON. Maryland pays her chief justice $4,500; Massachusetts, $8,500; Michigan, $8,000; Minnesota, $5,000; Missouri, $4,500; Montana, $6,000; Nebraska, $2,500——

Mr. BROWN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Nebraska?

Mr. DIXON. With pleasure.

Mr. BROWN. I desire to call the Senator's attention to the fact that the people of Nebraska, by constitutional amendment, have increased the salaries of the judges this year to $4,500.

Mr. DIXON. But still that is 50 per cent less than the actual amount paid the federal district judges.

I have now a later number of the Law Notes, giving three or four corrections as stated by Senators during the reading. New Hampshire pays her chief justice $3,500; New Jersey, $10,000; North Carolina, $3,000——

Mr. OVERMAN. I will say that we have increased the salary $500, making it $3,500.

Mr. DIXON. The great State of North Carolina, under the statement of the Senator from that State, now pays its chief justice $3,500, only a little more than one-third of the actual figures that are in the bill, and, as a matter of fact and cold-blooded financiering, not over 20 per cent of the real amount that a district judge of the United States draws at this time, taking into consideration his life pension.

To continue the list, North Dakota pays her chief justice $4,000; the great State of Ohio pays her chief justice $6,500——

Mr. FORAKER. How much?

Mr. DIXON. Six thousand five hundred dollars.

Mr. FORAKER. That is correct. I want to say, if the Senator will allow me, that when I was on the floor a few moments ago some one asked me that question. I was unable to answer; so I sent to the library, or had my clerk go there, and he reported to me that the salary was increased a year or two ago and the supreme court judges now get $6,500.

Mr. DIXON. That is the amount the Law Notes give.

Mr. FORAKER. I think that is less than they ought to have.

Mr. DIXON. Pennsylvania pays her chief justice $8,500, only 50 per cent of what a federal district judge really will get under the proposed amendment now pending. Rhode Island pays her chief justice $5,500; South Carolina, $2,800—but the footnote says that that has been increased to $3,000—South Dakota, $3,000; Tennessee, $3,500; the great State of Texas, $3,500——

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Texas?

Mr. DIXON. Certainly.

Mr. CULBERSON. I am satisfied that the amount stated by the Senator from Montana as to the salary of the chief justice of Texas is incorrect. He is paid $4,000 by the constitution which was adopted in 1876.

Mr. DIXON. All that I know is from the table printed in the Law Notes. Of course, I know nothing about it personally.

Mr. WARREN. I suggest to the Senator from Montana that the table seems to be very imperfect. Judging from the interruptions of various Senators, it does not seem to be reliable.

Mr. DIXON. Including all the corrections, still the salaries paid to the chief justices of the States are not within 60 per cent of the amount we are going to pay the federal district judges under the bill.

Vermont pays her chief justice $3,000——

Mr. PAGE. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Vermont?

Mr. PAGE. Vermont raised the salaries of her judges this year to $4,000.

Mr. DIXON. Four thousand dollars—about 33⅓ per cent of the amount to be paid federal district judges, as provided in the bill.

Mr. DEPEW. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from New York?

Mr. DIXON. With pleasure.

Mr. DEPEW. I should like to ask the Senator from Montana, if he is reckoning that the federal district judge gets $15,000, how much of that is available for his expenses, to pay his bills? As I understand, he now receives $6,000 a year salary. By a computation, something like a life-insurance computation, the Senator figures out that, with his office rent, with the pension he will receive after his retirement, and other considerations, the judge is actually receiving $15,000 a year. He has got to support his family, and he actually gets $6,000. How does he get the other $9,000?

Mr. DIXON. I beg pardon of the Senator from New York. I did not say that the judge got that much money. I said that was the equivalent of what a lawyer made in actual practice. I had stated that the judge gets at least 50 per cent more than appears on the face of the salary itself, considering his life pension at full pay on retirement. I am merely reading from this list; but I believe that what I am now reading is as interesting as anything in the debate; and I will read the rest of it.

Mr. CLARK of Wyoming. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Wyoming?

Mr. DIXON. With pleasure.

Mr. CLARK of Wyoming. I desire to ask for information as to the Senator's computation. For what length of time does he consider the pension?

Mr. DIXON. For half of the service on the bench.

Mr. CLARK of Wyoming. Then, if a judge has served upon the bench for forty years and retires at the age of 70, the Senator considers the pension up to the age of ninety.

Mr. DIXON. Oh, no. No district judge in the United States, I think, in the whole record of our judicial history, has served that long.

Mr. CLARK of Wyoming. I am trying to get at the basis of the Senator's calculation, not at a particular case.

Mr. DIXON. I say the "average." I think I stated that very fairly.

Mr. CLARK of Wyoming. Is the Senator prepared to say what the average age at retirement has been?

Mr. DIXON. I do not know.

Mr. CLARK of Wyoming. Or is the Senator prepared to say, having figured out this computation carefully, what has been the average length of service of the federal judges upon the bench?

Mr. DIXON. I will take, without knowing what the tables show, the expectancy tables of any of the great life insurance companies. A federal judge is not an unusual man.

Mr. CLARK of Wyoming. I am simply asking for my own information. If the Senator has made a computation that is exceedingly accurate as to the mathematical part of it in figuring out percentages, I want to know if he is accurate as to the basis of his percentages.

Mr. DIXON. I will say in reply that I know nothing whatever, individually, as to this matter, but I will take the tables of the life insurance companies for the kind of a life a judge lives, and, whatever it may be, submit that to the Senator from Wyoming for his information; but I think I have not missed it very far.

Virginia pays her chief justice $4,200; Washington, $4,000; West Virginia, $4,500; Wisconsin, $5,000; and Wyoming, $3,000.

I think, Mr. President, applying a homely maxim, that charity ought to begin at home. If the legislatures of 46 States in this Union in their combined wisdom have fixed the salaries of their chief judicial officers 50 per cent less than that now paid the federal judges at this particular time, with $150,000,000 deficit facing us for this year, we will agree that, at least, this proposed increase is not opportune.

I have another table in my hand, and I think it might prove of interest. I will not weary the Senate. It is a list of salaries paid to the chief executive officers of 45 States of the Federal Union.

Mr. WARREN. Will the Senator allow me?

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Wyoming?

Mr. DIXON. With pleasure.

Mr. WARREN. I am going to differ very seriously with the computation the Senator has made of the length of service of

the judges and the length of their retirement. In the first place, we have had judges on the Supreme Bench who have served thirty-five to forty years. I think one-third or one-half of the present members of the Supreme Bench are now beyond 70 years of age. They serve long after the age others usually tire of work or until they are incapacitated. So, taking those who commenced earlier than the age the Senator gives and those who served later, I believe he should divide it by about three, and that about one-third of the amount he has estimated for retirement would come nearer the true amount than the figures he has given us.

Mr. FULTON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Oregon?

Mr. DIXON. Certainly.

Mr. FULTON. I wish to ask the Senator if he read from the list on his desk the salary paid to the supreme judges of Oregon.

Mr. DIXON. I read it.

Mr. FULTON. I was out of the Chamber for just a moment. I saw the list the Senator has now, which quotes the salary at $2,000, and if the Senator so read it, it is inaccurate. Probably it was compiled from the provision in the constitution of Oregon, which fixes the salary at $2,000. But the legislature has since increased it. I am not quite certain myself whether the judges get $4,500 or $5,000, but it is either one or the other.

Mr. DIXON. The Senator from Oregon is correct. I find in the January number of Law Notes a letter from W. A. Robbins, of Portland, Oreg., who says:

> In Volume No. XII of your Law Notes, I notice on page 168 thereof, under the title "Underpaid judiciary," you state that the chief justice of the State of Oregon gets a salary of $2,000 per annum. I beg to call your attention to the fact that this is an error, as the chief justice of this State receives a salary of $2,000, together with an additional salary of $2,500 annually as a full compensation for the additional labor in holding court away from the capital, to wit, at Pendleton, Oreg. (See Session Laws, 1903, p. 182.)
>
> W. A. ROBBINS.

Mr. FULTON. Yes.

Mr. RAYNER. What did you give as the salary of the appellate judges of Maryland?

Mr. DIXON. The Law Notes for December gives it at $4,500.

Mr. RAYNER. You will have to add $1,300 to that. My colleague, who has definite information on the subject, says we pay them $5,800 for salary and expenses.

Mr. SMITH of Maryland. Thirteen hundred dollars was added last year for expenses.

Mr. DIXON. I wish the Senator from Maryland would repeat his statement.

Mr. SMITH of Maryland. The court of appeal judges of Maryland now get $5,800. The compensation was raised at the last session of the legislature by $1,300 for expenses. The associate judges of the State get $3,600.

Mr. DIXON. The associate justices $3,600?

Mr. SMITH of Maryland. The circuit judges, $3,600.

Mr. DIXON. And the chief justice gets $4,500, with $1,300 for expenses; $5,800 in all?

Mr. SMITH of Maryland. Yes.

Mr. RAYNER. All the appellate judges get $5,800—every one of them.

Mr. DIXON. That includes salary and expenses?

Mr. RAYNER. Salary and expenses.

Mr. DIXON. As against $10 a day for a district judge when holding court outside of his own district?

For the further information of the Senate I want to read what the 45 States of the Union pay their chief executive officers; and I find that only 7 of the 45 States pay their chief executive officers a salary equal to that now paid the federal district judges. Alabama pays her governor $5,000. He is elected for four years, after a somewhat strenuous and extensive campaign, and can not succeed himself. Arkansas pays her governor $3,000 a year; California, $6,000; Colorado, $5,000; Connecticut, $4,000; Delaware, $2,000; Florida, $5,000; Georgia, $5,000; Idaho, $5,000; Illinois, $12,000; Indiana, $8,000; Iowa, $5,000; Kansas, $5,000; Kentucky, $6,500; Louisiana, $5,000; Maine, $3,000; Maryland, $4,500; Massachusetts, $8,000; Michigan, $4,000——

Mr. SMITH of Michigan. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Michigan?

Mr. DIXON. Certainly.

Mr. SMITH of Michigan. Michigan has been a little more liberal toward her chief executive since that book was published. It is $5,000 now.

Mr. DIXON. Still a thousand dollars less than the federal judges get, and $4,000 less than is proposed under this pending amendment.

Minnesota, $7,000; Mississippi, $4,500; Missouri, $5,000; Montana, $5,000; Nebraska, $2,500; Nevada, $4,000; New Hampshire, $2,000; New Jersey, $10,000——

Mr. GALLINGER. I will state that New Hampshire has grown a little more liberal, and pays $3,000 now.

Mr. DIXON. The latest return from New Hampshire is $3,000 per annum.

Mr. GALLINGER. That is right.

Mr. DIXON. One-half of the present salary of a district judge and just one-third of the salary proposed by the pending amendment.

Mr. KEAN. Did the Senator read New Jersey?

Mr. DIXON. The great State of New Jersey stands within one of the top of the list—$10,000 per annum.

Mr. KEAN. That is correct. I suppose the Senator, when he finishes this comparison, will also compare the compensation of the members of the legislatures of the States with the compensation of the Members of the House of Representatives and the Senate.

Mr. DIXON. If Senators desire to hear it, I shall be pleased to entertain them.

Mr. du PONT. Mr. President——

The VICE-PRESIDENT. Does the Senator from Montana yield to the Senator from Delaware?

Mr. DIXON. Certainly.

Mr. du PONT. I should like to ask the Senator from Montana what salary he stated that the governor of Delaware receives?

Mr. DIXON. As given in the New York World Almanac for 1908, from which I read——

Mr. RAYNER. I should like to inform the Senator from Montana——

Mr. DIXON. It is $2,000.

Mr. du PONT. I should like to say that the salary of the governor of Delaware is $4,000.

Mr. DIXON. Two-thirds of the salary at present paid to district judges, and about 40 per cent of that proposed to be paid to them annually under the pending amendment.

Mr. RAYNER. I suppose the Senator is going down the line, and will presently get to justices of the peace and constables. We pay our members of the state assembly $450 per annum. He might cite that as a good reason——

Mr. DIXON. That is probably the measure of their worth in Maryland. I know nothing about that. New York pays her governor $10,000.

Mr. RAYNER. I am glad to say that their work is very much better than the work of the general assembly in the Senator's State, from all the evidences we have had.

Mr. DIXON. I will say to the Senator from Maryland we have had some that I do not think we could get up an argument about.

Mr. RAYNER. We have had some of the best men in our State in the assembly. I myself was in the state assembly. [Laughter.] Let me finish the sentence. I was in the general assembly with two ex-Cabinet officers—Philip Francis Thomas, who was Secretary of the Treasury and was elected United States Senator, and Montgomery Blair, who was Postmaster-General in Lincoln's Cabinet—and a dozen other distinguished men in my State, and they came there for $450 a year. So if you are citing those cases, I think you might go down the line.

Mr. DIXON. I am merely citing this to show the wisdom of the average representatives of the people in all of the States of the Union with respect to the offices named.

North Carolina pays her governor $4,000, and he can not succeed himself, as the junior Senator from North Carolina [Mr. OVERMAN] remarks. North Dakota, $3,000; Ohio, $10,000; Oklahoma, $4,500; Oregon, $5,000; Pennsylvania, $10,000; Rhode Island, $3,000; South Carolina, $3,000; South Dakota, $3,000; Tennessee, $4,000; Texas, $4,000; Utah, $4,000; Vermont, $1,500——

Mr. PAGE. I should like to say to the Senator that we have raised the salary to $2,500.

Mr. DIXON. Twenty-five hundred dollars, or about one-quarter of that fixed for a federal district judge under this amendment.

Virginia, $5,000; Washington, $4,000; West Virginia, $5,000; Wisconsin, $5,000; Wyoming, $2,500.

That is about all that I wanted to say. I have consistently voted against all of these raises except in the case of the President, whose salary can not be changed for the coming term unless it is done before the 4th of March. I really think that in his case, as the head of the Nation, with extraordinary expenses and extraordinary dignity, he should receive more salary than that fixed by the present statute. In the case of the federal judges I think, in comparison with all the great officials of the Government, there are no men on the federal pay roll

paid as much annually for their services as the judges whose salaries we are now considering.

Mr. BORAH. Mr. President, I suggested the amendment which brought up in the first place the question of the change in the salaries of the federal judges, and in view of the trend of the discussion which has taken place I want to add just a word.

In the first place, we need hardly vie with one another here in our regard and respect for our judiciary. We all have a very high regard and a profound respect for that tribunal and for the great men who have occupied positions upon that tribunal from the time of its organization to the present time. I do not believe the general character, standing, learning, and ability at the present time are by any means lower than at any other time in the history of the bench. There have been exceptional men upon the bench in times past to whom the historians have given a peculiar place in our history, and it may seem to some improper to compare them with the present occupants. But when the present history of the country comes to be written we will find that such men as Harlan and Fuller and their associates will compare in ability and integrity and in worth with the greatest jurists who have presided over that bench at any time in its history. So we may set aside for the present the question of the present status of the bench with reference to its integrity and character and our regard for it.

I believe in their integrity. I believe in the integrity and the ability of the federal bench as a whole. I do not believe that any just insinuation can be indulged in against that tribunal. There may be rare exceptions, and there have possibly been rare exceptions, which would give rise to a possible inference at different times in the history of the bench, but as a whole and in its complete history it is one of the greatest tribunals in the history of the world, and has been presided over by the most remarkable set of men who have ever presided over any tribunal. In my opinion that is just as true at the present hour as at any other time in the history of the country.

But, Mr. President, I also believe in the profession of which I am a very humble member. I do not believe the time will ever come in the history of that profession when it will not furnish sufficient brains and integrity, sufficient ability, and sufficient patriotism to fill the places upon that great tribunal, without considering to any great extent the question of salary or the sufficiency of the emoluments.

The emoluments would never secure to us the bench which has been secured, and the only way in which it will be secured is by reason of the fact that the great legal profession will always have in it men of sufficient ability and of sufficient loyalty to the Government and with sufficient desire and design to acquire a place in the history of the country to serve upon that bench regardless of the question of emoluments. So we need not fear so far as the question of salary is concerned as to keeping up the efficiency of the bench.

I desire to say in answer to the suggestion of the Senator from Washington that it does not necessarily follow that the man who is drawing fifty or one hundred thousand dollars a year as a lawyer is the most efficient and capable man to act as a jurist upon the bench. Some of the greatest men who have ever presided over our tribunals have been those who were failures, pronouncedly so, in the practice of law.

The man in the arena, in the conflict of the trial, is one individual, and he may be a powerful advocate, commanding great fees and controlling great interests, and yet in the dispensation of justice from the bench he may be to a great degree a failure. He may lack the judicial temperament. That has happened time and time again. So, Mr. President, there always have been and always will be men who will take these positions from another consideration entirely.

Mr. President, there are no judges at the present time resigning to any great extent. There is no difficulty in filling vacancies. Whenever a position is vacant, there is no trouble to find a party competent, efficient, properly trained, anxious to take it.

Will any member of this body contend that by reason of modest emoluments which have been prevailing for some time the standing of the judiciary of this country has been in any wise lowered? Has the fact that for the last twenty-five years we have not been paying salaries equal to the income of great lawyers lowered the standing or the capacity or the ability of the federal bench? It simply proves, as has been suggested here so ably by the Senator from Texas, that there is a motive impelling men to take positions other than that of salary.

A republic will never be able upon the ground of money-making to arrange its salaries in accordance with that principle. We can not establish in this great body a rule which will compensate men in the measure of dollars and cents for their services. It is an impossible rule for a republic to adopt.

Mr. President, we have organized here at some time or other in the history of this body what the scientists have never been able to discover, and that is, politically speaking, perpetual motion. We raise one salary. When we come to discuss the question whether another salary shall be raised, we do not take into consideration the actual necessity of the raise, but we stand here in our places and argue that because one salary has been raised it is unfair to keep some other man's salary down. The result is, when the entering wedge is once made and a salary is once raised, one position is played against another until there is a constant, perpetual motion for the raise of salaries. That is the real basis of the contention of the distinguished Senator from Ohio in this argument and this very motion—that we have now established a $10,000 rate for one judge, and whether it is too high or too low, the point is that we must not discriminate, and therefore we must inquire not into the real worth of the service or the necessity of the raise, but whether some one else is drawing more than this particular individual. So we have this constant movement and perpetual motion with reference to these matters, based upon the proposition of playing one department against another, one office-holder against another, until we have always confronting us the question not what is the real amount that we should pay, but what some one else is drawing.

Mr. President, I have been opposed to the raise of these salaries from the beginning, for two reasons. In the first place, in my judgment, the raise of these salaries is in violation of the spirit of the Constitution, and it is, in my judgment, a violation of good faith on the part of the majority party in this Chamber toward the people of the United States. The Constitution provides that we shall not raise the President's salary during his term of office. We are hastening now with undue dispatch to avoid the violation of the letter of the Constitution, when we know we are violating the spirit of the Constitution in doing so. I submit that if the question of the raise of the salary of the President and of all the officers mentioned had been suggested in this Chamber last spring it would have died in the twinkling of an eye. I suggest, further, that if it had been suggested in the late campaign that we were going to raise the salary of the President, or raise the salary of the several different officers to the extent proposed, it would have been repudiated by all the candidates for President and by the chairmen of all the parties asking for the suffrages of the people. So we are not only violating the spirit of the Constitution, but we are violating what, in my judgment, is the spirit of good faith toward the people, whose approval the majority party in this Chamber asked within the last ninety days.

It is said the people are in favor of it. They have had no opportunity to pass upon it, and we are not giving them in this way an opportunity even to protect their rights, in my judgment, under the Constitution. It has been said here by the Senator from Colorado [Mr. TELLER] that this is a mere bagatelle. So it is. And it has been said further, and very properly, by the Senator from Colorado, that it is nothing in comparison with some of the expenditures which are being made, and which ought to be stopped. There is only one way in the world to stop, and that is to stop when time is called. If any other similar appropriations are being made and attention is called to them we will have the same opportunity to establish a precedent with reference to them as we have with reference to this. It is at least hardly proper to say because expenditures are being made that ought not to be made we should judge these expenditures by a comparison between the two. I do not myself believe that we should discriminate as between the circuit judges and the district judges in the sense which has been suggested, but I do believe that we ought to reconsider the question of the salaries of the circuit judges and fix it in accordance with what is proper, and fix this in accordance with what is proper, rather than to raise the circuit judges beyond a proper measure, and to measure this item in accordance with the salary we pay the circuit judges.

Mr. MCLAURIN. Mr. President, I am loath at this late hour of the day to say anything on this question which has been so long and so ably and so exhaustively debated, and I would not do so but for some expressions which have been made not only here in this debate, but have been continuously made whenever the question of salaries has been discussed.

I will say, at the outset, that I am opposed to the increase of any of the salaries that are increased in this bill. I believe the salary of every officer of the Government ought to be that which will compensate him for the services which he renders the Government; so much and no more. I believe further that if the salaries of the circuit judges are to be $10,000 or $9,000, the salaries of the district judges ought to be as much. I do

not believe there ought to be any distinction between the salaries of the district judges and the circuit judges. I do not believe there is any difference between the work done by one set of judges and that done by the other set of judges.

I do not take to the doctrine of paying occupants of offices for what is termed the "dignity" of the office. I do not think that dignity is a purchasable commodity; and if it is, I do not think the Government of the United States ought to be in the purchasing business, so far as that commodity is concerned. I think that dignity is found in the footman who walks the roads or streets just as well as in the occupant of a cushioned carriage drawn by a splendid team, driven by a coachman in livery, or the occupants of automobiles. The dignity is in the man, not in the office. Dignity is the state of being worthy. It is the elevation of the man or character. It is true worth, and that may be found in the man who follows the plow, or in the blacksmith who works in a shop, or in the man with overalls working in a shop, as well as in a man in a lawyer's office, or wearing judicial ermine, or in the man in the highest office within the gift of the American people—the President of the United States.

It is this that has impelled me to take the floor on this question. It is because I do not believe, and have never believed, in this talk that no dignity can be found except in the occupant of an office. I think those who are in the private walks of life are just as dignified, if they desire to be, as the man who occupies the highest official station in the Government of the country, and for that reason I have opposed all along the increases which are being made in the salaries of officers where the salary is based upon the dignity of the office.

I wish it were in this country that those who have the administration of the Government in their hands could understand that they are the representatives of the people, who are really the governing power of the country, and that it is the duty of people in official position to teach the American people, so far as their conduct and their administration of official or executive office is concerned, that true dignity, true worth, true elevation of character and mind, ought to be in all the people of the country who elevate these officers to the positions they occupy and to the dignity, or the assumed dignity, that is contained in them.

It is all very well in monarchical countries, and especially in those where the people have very little or no voice in the administration of the government, to treat with utter contempt and utter disgust the thought of dignity anywhere except in official position.

But it does not do and ought not to do in this country. Every sovereign voter in this country ought to be taught and ought to understand that dignity is required of him as much as it is of the men who are elevated to high position in the administration of the government of the country.

I was going to say something in reference to the point that was made by the Senator from Colorado [Mr. TELLER], that we are expending hundreds of millions of dollars upon the army and upon the navy and upon the Philippines and other useless extravagances, and therefore those extravagant and useless expenditures are predicated as an argument for this expenditure, whether the expenditure be right or wrong.

Now, let this stand upon its merits. If it is wrong to expend $100,000,000 or $150,000,000 upon the army of the country and $100,000,000 upon the navy and a thousand million dollars upon the Philippine Islands, that is no argument whatever why this should be done if it is wrong. We ought to stop the extravagant expenditures in the army and the navy and the Philippines. We ought to lop off all the extravagances of this country and bring it down to a simple republican, democratic form of government, and not try to keep up with the crowned heads of Europe by our salaries or in any other particular except in the independence and the nobility and greatness of the country which we represent and of the people whom we represent.

I think that the expenditures for the army ought to be cut down at least one-half, and I think if they were cut down two-thirds it would be better for the country, because we do not need any great standing army. I think the same is true as to the navy. We hear talk about a world power. We have been a world power ever since the treaty with Great Britain that recognized the independence of this country, and we will continue to be a world power whether we have a small army and a small navy or whether we have a great army and a great navy. It is not necessary for this country to have great armies and great navies in order to make itself respected abroad. The governments of the world do not desire to attack a powerful country any more than men in private life desire to attack a brave man who is capable and able to defend himself.

Mr. President, I did not intend to say anything with reference to these salaries, and I would not have said anything but for the fact that there is constant talk here about the dignity of these positions, and I wanted to express once for all my opinion that dignity does not depend upon official position, and it does not depend upon the holding of office, but dignity is in the real merit, the real worth of the individual, and may be found in the humblest walks of life as well as in the highest walks of life.

I repeat what I started out to say and then I shall have done. If the salaries of the circuit judges ought to be $10,000, the salaries of the district judges ought to be as much. While I intend to vote against the raising of the salaries of the district judges, as I have voted consistently against the raising of the salaries of the other judges, yet if, when the bill shall come into the Senate and the salaries shall be voted upon there, the salaries of the circuit judges shall be fixed at $10,000, I shall be in favor of fixing the salaries of the district judges at an amount equally as much.

Mr. WARREN. Mr. President, I hope we may now have a vote.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Ohio [Mr. FORAKER] to the amendment of the committee.

Mr. HEYBURN. Let the amendment to the amendment be stated.

Mr. LA FOLLETTE. Mr. President, I feel obliged to suggest the absence of a quorum.

The VICE-PRESIDENT. The Senator from Wisconsin suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Curtis	Johnston	Piles
Bailey	Davis	Kean	Rayner
Bankhead	Depew	Kittredge	Richardson
Borah	Dick	Knox	Scott
Bourne	Dillingham	La Follette	Simmons
Brandegee	Dixon	Lodge	Smith, Md.
Brown	du Pont	Long	Smith, Mich.
Bulkeley	Flint	McEnery	Smoot
Burkett	Foraker	McLaurin	Stephenson
Burnham	Frazier	Martin	Sutherland
Burrows	Frye	Milton	Taliaferro
Carter	Fulton	Money	Teller
Clapp	Gallinger	Nelson	Warner
Clark, Wyo.	Gamble	Overman	Warren
Clay	Gary	Page	Wetmore
Crane	Guggenheim	Paynter	
Culberson	Hemenway	Penrose	
Cullom	Heyburn	Perkins	

The VICE-PRESIDENT. Sixty-nine Senators have responded to their names. A quorum of the Senate is present. The question is on agreeing to the amendment to the amendment, which will be stated.

The SECRETARY. On page 167, line 23, in the committee amendment, strike out "eight" and insert "nine," so that if amended it will read:

For salaries of the 84 district judges of the United States, at $9,000 each.

Mr. BORAH. I ask for the yeas and nays on the adoption of the amendment to the amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DAVIS (when the name of Mr. CLARKE of Arkansas was called). My colleague [Mr. CLARKE of Arkansas] is paired with the Senator from Rhode Island [Mr. ALDRICH].

Mr. SCOTT (when the name of Mr. ELKINS was called). My colleague [Mr. ELKINS] is unavoidably absent from the city, and is paired with the Senator from Texas [Mr. BAILEY].

Mr. McLAURIN (when his name was called). The senior Senator from Maine [Mr. HALE] was unavoidably called from the Chamber, and I am paired with him. If he were present, I would vote "nay."

Mr. WARREN (when his name was called). I announce my pair with the Senator from Mississippi [Mr. MONEY].

The roll call was concluded.

Mr. KEAN. My colleague [Mr. BRIGGS] is unavoidably absent. He is paired with the Senator from Tennessee [Mr. TAYLOR].

Mr. BAILEY (after having voted in the negative). I announced on the previous roll call that I have a general pair with the Senator from West Virginia [Mr. ELKINS], but I also announced at that time that I transferred my pair to the Senator from Oklahoma [Mr. GORE]. Consequently, I voted.

Mr. MARTIN. I desire to state that my colleague [Mr. DANIEL] is necessarily absent and is paired with the senior Senator from North Dakota [Mr. HANSBROUGH].

The result was announced—yeas 30, nays 38.

YEAS—30.

Bourne	Dillingham	Kean	Rayner
Brandegee	du Pont	Kittredge	Richardson
Bulkeley	Flint	Knox	Scott
Burnham	Foraker	Lodge	Sutherland
Clark, Wyo.	Gallinger	Long	Teller
Crane	Guggenheim	Penrose	Wetmore
Depew	Hemenway	Perkins	
Dick	Heyburn	Piles	

NAYS—38.

Bacon	Culberson	Johnston	Simmons
Bailey	Cullom	La Follette	Smith, Md.
Bankhead	Curtis	McEnery	Smith, Mich.
Borah	Davis	Martin	Smoot
Brown	Dixon	Milton	Stephenson
Burkett	Frazier	Nelson	Taliaferro
Burrows	Frye	Newlands	Tillman
Carter	Fulton	Overman	Warner
Clapp	Gamble	Page	
Clay	Gary	Paynter	

NOT VOTING—24.

Aldrich	Daniel	Hansbrough	Nixon
Ankeny	Dolliver	Hopkins	Owen
Beveridge	Elkins	McCreary	Platt
Briggs	Foster	McCumber	Stone
Clarke, Ark.	Gore	McLaurin	Taylor
Cummins	Hale	Money	Warren

So Mr. FORAKER's amendment to the amendment of the committee was rejected.

Mr. FULTON. I move to reconsider the vote whereby the amendment fixing the salaries of circuit judges at $10,000 was agreed to.

Mr. WARREN. Did the Senator vote in the affirmative?

Mr. FULTON. I do not know whether I voted on the question or not. I think it was a viva voce vote.

The VICE-PRESIDENT. The Senator from Oregon moves to reconsider the vote by which the amendment, which will be stated by the Secretary, was agreed to.

The SECRETARY. Before the word "thousand," in line 13, page 167, "seven" was stricken out and "ten" inserted, so as to read:

For 29 circuit judges, at $10,000 each.

Mr. FULTON. I wish simply to state that I expect to follow up the motion by moving that the salary be placed at $9,000, and then, if somebody else does not, I will move that the salary of the district judges be made $8,500. I think that will be something nearer what the increase should be.

The VICE-PRESIDENT. The question is on the motion of the Senator from Oregon to reconsider the vote by which the amendment just stated was agreed to.

The motion to reconsider was agreed to.

The VICE-PRESIDENT. The question is before the Senate on agreeing to the amendment of the committee.

Mr. FULTON. I move to amend the amendment by inserting "nine thousand" instead of "ten thousand."

The VICE-PRESIDENT. The Senator from Oregon proposes an amendment to the amendment, which will be stated.

The SECRETARY. On page 167, line 13, strike out "ten" and insert "nine," so that if amended it will read:

For 29 circuit judges, at $9,000 each.

Mr. DIXON. I move to amend the amendment by inserting "eight" in place of "nine" before the word "thousand."

Mr. WARREN. As the Senator knows, that would be an amendment in the third degree.

The VICE-PRESIDENT. It would be in the third degree. The question is on agreeing to the amendment of the Senator from Oregon to the amendment of the committee.

The amendment to the amendment was agreed to.

The VICE-PRESIDENT. The question now is upon the amendment of the committee as amended.

The amendment as amended was agreed to.

Mr. FULTON. I submit a parliamentary inquiry as to the status of the amendment fixing the salary of the district judges.

The VICE-PRESIDENT. The committee amendment is now the question before the Senate. The question is on agreeing to the amendment of the committee.

Mr. FULTON. What is the amount?

Mr. CULLOM and Mr. WARREN. Eight thousand dollars.

Mr. FULTON. I move to increase that amount to $8,500. ["No!" "No!"] Very well; I withdraw it.

The VICE-PRESIDENT. The Senator from Oregon withdraws his amendment to the amendment. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The VICE-PRESIDENT. The next amendment of the committee will be stated.

The SECRETARY. In line 24 strike out "five hundred and four" and insert "six hundred and seventy-two," so as to read "$672,000."

Mr. CARTER. I move that the Senate proceed to the consideration of executive business.

Mr. WARREN. I appeal to the Senator from Montana to permit us to finish the bill. I have been very patient about it. The Senator from Maine [Mr. HALE] has another appropriation bill awaiting the conclusion of this measure. I think it will take only a few minutes longer.

Mr. LODGE. All these are committee amendments, and there may be some other amendments to be offered by individual Senators. Those come subsequent to the committee amendments. We are still on the committee amendments.

Mr. WARREN. I understand; but I think we are about through, and I should like to find out whether we are in a position to complete the bill.

Mr. CARTER. I withdraw the motion.

The VICE-PRESIDENT. The Senator from Montana withdraws the motion. The Secretary will again state the pending amendment of the committee.

The SECRETARY. In line 24 strike out "five hundred and four" and insert "six hundred and seventy-two," changing the total to $672,000.

Mr. CULBERSON. I suggest that the amendment ought not to be adopted now, because some of the individual items above have been changed. The circuit-court amendment has been changed from $10,000 to $9,000.

The VICE-PRESIDENT. The total relates alone to the item for the district courts.

Mr. CULBERSON. I see.

The amendment was agreed to.

Mr. WARREN. The next amendment, I think, occurs on page 168, line 13.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. On page 168, line 13, the committee proposes to strike out "seven thousand five hundred" and insert "ten thousand."

Mr. BORAH. I wish to propose an amendment to the amendment.

Mr. WARREN. I have an amendment that the committee wish to offer at this point.

The VICE-PRESIDENT. That is first in order.

Mr. WARREN. In view of the vote just taken, I think we should reduce the $10,000 for the chief justice of the court of appeals of the District of Columbia to $9,000, the same as the circuit judges. I move to strike out "ten" and insert "nine" before "thousand."

The VICE-PRESIDENT. The Senator from Wyoming proposes an amendment to the amendment of the committee, which will be stated.

The SECRETARY. On page 168, line 13, strike out "ten" in the committee amendment and insert "nine," so that, if amended, it will read:

For the chief justice of the court of appeals of the District of Columbia, $9,000.

The amendment to the amendment was agreed to.

Mr. WARREN. I wish to make the same amendment in the following line as to the two associate justices. I move to strike out "ten" and insert "nine" before "thousand," so as to read:

And for two associate justices, at $9,000 each.

The VICE-PRESIDENT. The question is on agreeing to the amendment to the amendment.

Mr. BAILEY. Do I understand that it is proposed to fix the compensation of the associate justices of the District of Columbia court of appeals at $9,000?

Mr. WARREN. It is.

Mr. BAILEY. I will only observe that that is giving the judge of a court whose jurisdiction is over 250,000 people double the average salary of those who hold similar offices in the States and whose jurisdiction covers the litigation of 3,000,000 people. If it is believed that a man who serves the Federal Government is entitled to double the pay of a man who does more work for the state government, then that kind of an amendment ought to be adopted.

I want to say that Senators here could not engage in legislation better calculated to exalt the Nation and to dwarf the State than the continued, unbroken assertion that the man who works for the Federal Government deserves a higher value than the man who works for a sovereign Commonwealth.

Mr. BORAH. Mr. President, I call attention to the fact, also, that this is an increase of $2,500 in the salary for this office at this particular time.

Mr. TILLMAN. What is the present salary?

Mr. BORAH. It is $7,500.

Mr. WARREN. I did not understand the Senator. Will he make his statement again?

Mr. BORAH. The salary as it is put into this bill would be an increase of $2,500, while the salary as proposed by the amendment would still be an increase of $1,500.

Mr. WARREN. It would.

Mr. BORAH. It would be an increase of fifteen hundred dollars over the present salary?

Mr. WARREN. It would.

Mr. BAILEY. On that I demand the yeas and nays.

Mr. WARREN. I only want to say, in this connection, that this court does more business than any of the other circuit courts in the United States, save three, and does equally as much as one of those three; and it is not the business of the District of Columbia alone, but it is business from the entire United States.

Mr. BORAH. I would ask the Senator from Wyoming where he gets the information that this court does more work than the circuit courts?

Mr. WARREN. We have the list here of the cases.

Mr. BAILEY. Mr. President, without any special information, I say without a minute's hesitation that that court does not do as much work as three-fourths of the supreme courts of the various States. As a matter of fact, its jurisdiction over matters not arising in this District is extremely limited. I know that.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Wyoming [Mr. WARREN] to the amendment of the committee.

Mr. BORAH. The yeas and nays were called for, Mr. President.

Mr. BAILEY. I did not understand that this was a committee amendment reducing salaries from $10,000 to $9,000.

The VICE-PRESIDENT. That is correct.

Mr. BAILEY. I have no objection to that. That is not the amendment on which I demand the yeas and nays.

Mr. FORAKER. Mr. President, I should like to say a word.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Wyoming to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. FORAKER. Mr. President, in answer to the remarks made by the Senator from Texas [Mr. BAILEY] a moment ago, I think somebody should state the matter. I shall have to state it from recollection, that there was a statement furnished to the Judiciary Committee—I think it must have come from the Department of Justice, though I am not certain about that, but I know such a statement was furnished, and I had a copy, which is on my desk at my residence, however—showing, very greatly to my surprise, that this court here does much more business than all the circuit courts of the United States except only the three which the Senator from Wyoming [Mr. WARREN] has stated, and the amount of business is practically the same in this court that it is in one of those three. I was greatly surprised to learn it.

Mr. CLARK of Wyoming. For the information of the Senator from Ohio, I will say that the court of appeals of the District of Columbia, having the same jurisdiction as the circuit courts of the United States since the circuit courts of appeals have been established, has been exceeded in the number of cases disposed of by only two circuits in the United States, to wit, the second and the eighth.

Mr. BORAH. The question of the number of cases disposed of does not settle the question of the amount of business which a court does. In determining a proposition they may dispose of twenty or thirty cases.

Mr. CLARK of Wyoming. This court relatively does more business, because every opinion and judgment of the court is by law compelled to be in writing.

Mr. NELSON. Mr. President, I desire to call the attention of the chairman of the committee to line 10, on page 169, where I think the words "five hundred" before the word "dollars," ought to be stricken out in order to put it in harmony with the provision relative to the district judges.

Mr. WARREN. We have not arrived at that point, but when we do, the committee will offer an amendment to strike out "five hundred."

The VICE-PRESIDENT. The amendment proposed by the Senator from Idaho [Mr. BORAH] will be stated.

The SECRETARY. On page 168, line 13, before the word "thousand," it is proposed to strike out "nine" and insert "eight," so as to read:

Court of appeals, District of Columbia: For the chief justice of court of appeals of the District of Columbia, $8,000.

The VICE-PRESIDENT. The question is on agreeing to the amendment to the amendment.

Mr. BORAH. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CLARK of Wyoming. Mr. President, I desire to call the attention of the Senator from Idaho to the condition of affairs. The court of appeals of the District of Columbia through all our legislation, through all our appropriations for salaries, has stood on an exact par with the circuit courts of the United States, both as to jurisdiction and as to salaries, except that the salary of the chief justice of the court of appeals of the District of Columbia has been $500 per annum more than the salary of the circuit judges of the United States; and there never has been an attempt in any of our legislation to separate these courts from the circuit courts of the United States as to the matter of dignity, as to the matter of jurisdiction, or as to the matter of salary.

Mr. FORAKER. Mr. President, attention also should be called to the fact that one-half of these salaries is paid by the District of Columbia, and but one-half is paid out of the Treasury of the United States. I have a statement here, which is not so complete as the one I referred to a moment ago, but which I think will give some information to the Senate, which it ought to have the benefit of, and I ask that it may be read at the desk.

The VICE-PRESIDENT. Without objection, the Secretary will read the statement submitted by the Senator from Ohio.

The Secretary proceeded to read the paper.

Mr. FORAKER. Mr. President, I will not take the time of the Senate at this hour, unless some Senator insists upon it, to have all these details read.

Mr. BAILEY. I should like to have them go in the RECORD——

Mr. FORAKER. I was going to ask that.

Mr. BAILEY. Because I think it will demonstrate exactly what I said a moment ago, that none of these courts transact business comparable to the volume of business transacted in the supreme courts of the States.

Mr. FORAKER. I was going to suggest, in order to save time, that the paper be printed in the RECORD.

Mr. BAILEY. I have no objection to that.

The VICE-PRESIDENT. Without objection, it will be so ordered.

The paper referred to is as follows:

By section 61 of the Code of the District of Columbia the supreme court of the District of Columbia "shall possess the same powers and exercise the same jurisdiction as the circuit and district courts of the United States, and shall be deemed a court of the United States."

By section 62 "the justices of said court, in addition to the powers and jurisdiction possessed and exercised by them as such, * * * shall severally possess the powers and exercise the jurisdiction possessed and exercised by the judges of the circuit and district courts of the United States."

This court transacts in the District of Columbia all the business, civil and criminal, that is transacted by both federal courts and the state courts of record throughout the several States. It is the only federal court which possesses jurisdiction to issue the original writ of mandamus, and is the only federal court of original jurisdiction of cases in mandamus and injunction against the various heads of the departments of the Federal Government and their bureaus. There is no other court of record of original jurisdiction in the District of Columbia.

One-half the salary of the justices of the court is by law charged against the revenues of the District of Columbia. (Code, sec. 60.)

The last act of Congress fixing the salary of federal judges, including those of the court of appeals and the supreme court of the District of Columbia, is the act of February 12, 1903. (Stat. L., vol. 32, pt. 1, p. 825.)

The court of appeals is the intermediate court of review between the supreme court of the District of Columbia and the Supreme Court of the United States.

BUSINESS OF THE COURT.

From the report of the Attorney-General for the fiscal year July, 1907, to July, 1908, it appears that the number of cases brought in all the circuit and district courts of the United States west of the Mississippi River (excepting California), including Arizona, Arkansas, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, exclusive of bankruptcy cases, was—

Civil cases	3,968
Criminal cases	2,333

This business does not show the business of the supreme court of the District of Columbia. From the records of that court it appears that during the calendar year 1907 there were instituted in the different branches of the court, exclusive of bankruptcy cases, as follows:

Civil	3,780
Criminal (all grand-jury cases)	440

The total value of estates administered in the probate branch of this court alone, exclusive of the business done in the law and equity branches, was $20,480,875.98.

Number of cases filed and disposed of by the supreme court of the District of Columbia during the years 1907 and 1908, exclusive of probate branch.

Nature of causes.	1907.		1908.	
	Filed.	Disposed of by court.	Filed.	Disposed of by court.
Law	1,059	553	1,187	581
Equity	760	614	691	507
Criminal	440	354	485	351
District court	44	34	47	17
Bankruptcy	49	30	61	29
Lunacy	375	375	327	327
Naturalization	108	108	91	91
Habeas corpus	16	16	20	20
Requisitions	8	8	4	4
Total	2,859	2,095	2,913	1,927
Suits in mandamus against executive officers of the Government	23		41	

The foregoing statement does not include the great number of motions and hearings before the courts during this period, nor the cases settled in clerk's office.

Business of probate branch for the calendar years ending December 31, 1907 and 1908.

Number of—	1907.	1908.
Wills filed	562	575
Applications for letters testamentary or of administration and of collection	813	769
Applications for letters of guardianship	157	134
Pages of typewriting	6,218	7,792
Pages recorded in the records by book typewriters	7,311	7,394
Letters to fiduciaries notifying them to render accounts, inventories, file vouchers, etc., about	4,200	4,500
Letters answered	800	1,124
Witnesses to wills examined and testimony reduced to writing, about	900	875
Bonds taken and approved by court	957	941
Accounts stated	1,179	1,218

Value of—	1907.	1908.
Administration estates, about	$20,049,571.86	$18,964,478.18
Guardianship estates, about	431,304.12	368,119.44
Total	20,480,875.98	19,332,597.62

Mr. HEYBURN. Mr. President, I would inquire of the Senator from Ohio whether or not the act just referred to would apply at all to the court of appeals of the District of Columbia? It mentions the supreme court. I have never been under the impression that the District of Columbia pays any part of the salaries of the judges of the court of appeals, but only those of the supreme court of the District.

Mr. FORAKER. I am not able to answer that question. I was handed the statement which I asked to have read, and I thought the statement which was handed to me by the Senator in charge of the bill related only to the court of appeals. It relates to both; and it may be that the Senator from Idaho is correct in what he says. I do not know.

Mr. HEYBURN. I have not made a specific investigation; but I think I am correct.

Mr. BAILEY. The court of appeals here is a separate court from the supreme court.

Mr. HEYBURN. The supreme court has a different character of jurisdiction within the District of Columbia from that belonging to the court of appeals of the District of Columbia.

Mr. FORAKER. The court of appeals corresponds to the circuit courts of the United States and intermediate courts, and I supposed the salaries were paid in both courts in the same way. I could not now answer the Senator's question, although I could do so in the morning.

Mr. HEYBURN. Unless there is some other legislation on the subject than that contained in the statement in reference to the bill just read at the Secretary's desk, it would not cover the circuit court.

Mr. GALLINGER. Mr. President, I desire, in order to have the RECORD correct, to say that the salaries of the judges of the court of appeals as well as of the supreme court of the District of Columbia are paid one-half from the revenues of the District and one-half from the Treasury of the United States. There was some controversy about that matter.

Mr. WARREN. Those salaries are paid one half by the District and the other half from the Treasury of the United States.

The VICE-PRESIDENT. The Secretary will call the roll.

Mr. FORAKER. On what question, Mr. President?

The VICE-PRESIDENT. On the amendment proposed by the Senator from Idaho [Mr. BORAH] to strike out "nine" and insert "eight" in the clause providing for the salary of the chief justice of the court of appeals of the District of Columbia.

The Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I rise to a parliamentary inquiry. I should like to know exactly what we are voting on. I think there is a good deal of misapprehension in the Chamber.

The VICE-PRESIDENT. On the amendment striking out "nine" and inserting "eight."

Mr. CLARK of Wyoming. I understood that that was already voted upon.

Mr. LODGE. We agreed to "nine," and now the motion is to strike out "nine" and insert "eight."

Mr. DAVIS (when the name of Mr. CLARKE of Arkansas was called). My colleague [Mr. CLARKE of Arkansas] is paired with the Senator from Rhode Island [Mr. ALDRICH].

Mr. TALIAFERRO (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. SCOTT]. He is out of the Chamber. If he were present, I should vote "yea."

Mr. WARREN (when his name was called). I am paired with the Senator from Mississippi [Mr. MONEY], but I transfer that pair so that that Senator will stand paired with the Senator from New York [Mr. PLATT], and I will vote. I vote "nay."

The roll call was concluded.

Mr. McLAURIN (after having voted in the affirmative). I withdraw my vote. I forgot that I was paired with the Senator from Maine [Mr. HALE].

Mr. GAMBLE (after having voted in the affirmative). I inquire if the senior Senator from Nevada [Mr. NEWLANDS] has voted?

The VICE-PRESIDENT. The Chair is informed that the Senator from Nevada has not voted.

Mr. GAMBLE. I have a general pair with the senior Senator from Nevada, but I will transfer that pair to the junior Senator from Nevada [Mr. NIXON] and allow my vote to stand.

The result was announced—yeas 27, nays 33, as follows:

YEAS—27.

Bailey	Culberson	Heyburn	Paynter
Bankhead	Curtis	Johnston	Piles
Borah	Davis	La Follette	Simmons
Brown	Dixon	Martin	Smith, Mich.
Burkett	Frazier	Milton	Tillman
Clapp	Gamble	Nelson	Warner
Clay	Gary	Overman	

NAYS—33.

Bourne	Dillingham	Kean	Smoot
Brandegee	du Pont	Kittredge	Stephenson
Bulkeley	Flint	Knox	Sutherland
Burnham	Foraker	Lodge	Teller
Burrows	Frye	Long	Warren
Clark, Wyo.	Fulton	Page	Wetmore
Crane	Gallinger	Penrose	
Cullom	Guggenheim	Perkins	
Dick	Hemenway	Richardson	

NOT VOTING—32.

Aldrich	Daniel	Hopkins	Owen
Ankeny	Depew	McCreary	Platt
Bacon	Dolliver	McCumber	Rayner
Beveridge	Elkins	McEnery	Scott
Briggs	Foster	McLaurin	Smith, Md.
Carter	Gore	Money	Stone
Clarke, Ark.	Hale	Newlands	Taliaferro
Cummins	Hansbrough	Nixon	Taylor

So Mr. BORAH's amendment to the amendment of the committee was rejected.

Mr. WARREN. I desire to ask how the amendment in regard to the salary of the members of the district court of appeals now stands. It is my understanding that the amendment proposed by the committee to the amendment previously reported reducing the amount from $10,000 to $9,000 was agreed to, and that the Senate refused to reduce the amount further from nine thousand to eight thousand.

The VICE-PRESIDENT. That is correct as to the amendment in relation to the salary of the chief justice of the court of appeals. The question now is, Shall the amendment as amended be agreed to?

The amendment as amended was agreed to.

The VICE-PRESIDENT. The next amendment which was passed over will be stated.

The SECRETARY. On page 168, line 14, before the word "thousand," it is proposed to strike out the word "seven" and insert "ten," so as to read:

Court of appeals, District of Columbia.: For the chief justice of court of appeals of the District of Columbia, $9,000; and for two associate justices, at $10,000 each.

Mr. WARREN. Has not that amendment been acted on likewise?

The VICE-PRESIDENT. The amendments were not acted upon together.

Mr. GALLINGER. That amendment has not yet been acted upon.

Mr. WARREN. I certainly moved to change that from "ten" to "nine," and I thought it was announced that it had been so changed.

The VICE-PRESIDENT. The Senator moved to amend the proposed two amendments at the same time. The Chair suggested that the amendments would have to be acted on separately. The second amendment is now in order.

Mr. GALLINGER. Mr. President, on that matter, as the law now stands, the chief justice of the district court of appeals is given $500 more than the associate justices. The amendment now pending proposes to put them on an equality. Is that the purpose of the Senator?

Mr. WARREN. That is the way it is in the case of all circuit judges, and that was the purpose.

Mr. GALLINGER. It was not the purpose according to the text of the House bill at any rate. I move an amendment to make the salary of the associate justices $8,500.

Mr. WARREN. I should like to call the Senator's attention to the fact that the 29 circuit judges are all on a par, and it has been settled, I think, by the vote here and by expressions in the debate that the justices of the court of appeals should receive the same as the judges of the circuit courts. I should prefer that the Senator should undertake to raise the salary of the chief justice of the court of appeals of the District of Columbia rather than reduce the salaries of the associate justices, because it would throw it out of harmony with the remainder of the bill.

Mr. GALLINGER. I make the motion, Mr. President, for the reason that it seems to be the universal practice in our legislation to give the chief justice of a court a larger salary than his associates.

Mr. WARREN. But it is not the practice in the circuit courts and never has been. There is not a single circuit court in the United States where one judge gets more than another.

Mr. McLAURIN. He ought not to.

Mr. BAILEY. There is no chief justice of a circuit court.

Mr. GALLINGER. There is no chief justice.

Mr. BAILEY. I should like to know whether the chief justice does any more work than the associates.

Mr. GALLINGER. He does not.

Mr. KEAN. He presides.

Mr. BAILEY. Then, the $500 is simply for the dignity.

Mr. GALLINGER. My motion simply follows the rule. But if the Senator from Wyoming insists upon it, I will withdraw my motion. I do not care anything about it.

The VICE-PRESIDENT. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. BORAH. I desire to ask the Senator in charge of the bill how far he proposes to proceed with it to-night?

Mr. WARREN. I should like to get a vote of the Senate upon the next two items. The committee has one other amendment. Then I shall ask that the bill go over, not asking that it may be reported to the Senate, but to be taken up as in Committee of the Whole.

Mr. BORAH. As I understand, when the bill is reported to the Senate it will be subject to amendment the same as in Committee of the Whole.

Mr. WARREN. Certainly.

The VICE-PRESIDENT. It will be.

Mr. BORAH. In view of that fact, and in view of the lateness of the hour, I do not propose to offer any more amendments at this time.

Mr. WARREN. In line 10, on page 169, the committee ask that the words "five hundred" may be stricken out.

The SECRETARY. On page 169, line 10, after the words "District of Columbia," the Committee on Appropriations report an amendment to insert "$8,500;" in line 12, before the word "thousand," to strike out "six" and insert "eight," so as to make the clause read:

Supreme court, District of Columbia: For salaries of the chief justice of the supreme court of the District of Columbia, $8,500, and of the 5 associate judges, at $8,000 each.

It is now proposed to strike out "five hundred," in line 10, so as to read "eight thousand dollars."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next passed-over amendment was, on page 170, line 12, before the word "dollars," to strike out "six thousand five hundred" and insert "eight thousand;" in line 14, before the word "dollars," to strike out "six thousand" and insert "seven thousand five hundred;" and in line 24, before the word "hundred," to strike out "fifty-five thousand eight" and insert "sixty-three thousand three," so as to read:

Court of Claims: For the chief justice of the Court of Claims, $8,000; 4 judges, at $7,500 each; chief clerk, $3,500; assistant clerk, $2,500; bailiff, $1,500; 1 clerk, $1,600; 2 clerks, at $1,400 each; stenographer, $1,200; 3 clerks, at $1,200 each; 1 chief messenger, $1,000; 3 firemen; 3 watchmen; elevator conductor, $720; 2 assistant messengers; 1 laborer; and 2 charwomen; in all, $63,320.

The amendment was agreed to.

Mr. WARREN. There is another amendment to complete this subject-matter which I desire to offer. It is in the exact language proposed by the Committee on the Judiciary. I will ask that it be inserted on page 171, after line 22.

The VICE-PRESIDENT. The Senator from Wyoming proposes an amendment, which will be stated.

The SECRETARY. On page 171, after line 22, it is proposed to insert:

The salaries of the Chief Justice, associate justices, and circuit and district judges of the United States, of the chief justice and associate justices of the court of appeals of the District of Columbia, of the chief justice and associate judges of the supreme court, District of Columbia, and for the chief justice and judges of the Court of Claims are fixed at the sums herein provided and shall be paid to said justices and judges, respectively, unless otherwise provided by law.

The amendment was agreed to.

Mr. WARREN. I have here some information that was called for from the Treasury Department which I think ought to go in the RECORD, and will ask that it may be published in the RECORD, and that it also be printed as a document.

The VICE-PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

[Senate Doc. No. 672, 60th Cong., 2d sess.]

TREASURY DEPARTMENT,
OFFICE OF ASSISTANT SECRETARY,
Washington, January 21, 1909.

MY DEAR SENATOR WARREN: In compliance with your request of the 20th instant, I forward herewith statements showing the "amounts drawn by each circuit and district court judge for per diem under the $10 per day allowance granted by law in the fiscal year 1908."

Very truly, yours,

L. A. COOLIDGE,
Assistant Secretary.

Hon. FRANCIS E. WARREN,
United States Senate.

Expenses of United States circuit judges for travel and attendance during the fiscal year 1908.

Name of judge.	Number of days of travel and attendance.	Amount.
E. B. Adams	9	$80.00
F. E. Baker	109	1,090.00
Joseph Buffington	99	719.80
Le Baron B. Colt	184	1,289.00
A. C. Coxe	102	1,020.00
Wm. B. Gilbert	50	500.00
Nathan Goff	12	114.49
George Gray	74	147.00
P. S. Grosscup	61	399.00
W. C. Hook	187	1,725.60
E. Henry Lacombe	126	1,260.00
Horace H. Lurton	103	911.00
Andrew P. McCormick	154	1,540.00
W. C. Noyes	125	1,250.00
Don A. Pardee	157	1,560.00
J. C. Pritchard	94	633.23
Wm. L. Putnam	114	1,086.30
John K. Richards	13	130.00
Erskine M. Ross	93	930.00
W. H. Sanborn	149	1,490.00
Wm. H. Seaman	149	1,490.00
Henry F. Severens	120	953.75
David D. Shelby	172	1,647.50
Willis Van Devanter	129	1,038.00

Expenses of United States district judges for travel and attendance during the fiscal year 1908.

Name of judge.	Number of days of travel and attendance.	Amount.
O. F. Amidon	85	$754.55
Edgar Aldrich	117	1,164.00
A. B. Anderson	76	760.00
R. W. Archbald	34	251.88
S. H. Bethea	3	19.15
Aleck Boarman	130	1,300.00
Jas. E. Boyd	52	452.50
Edward G. Bradford	3	9.46
W. H. Brawley	18	180.00
Arthur L. Brown	45	357.75
Walter T. Burns	43	331.04
Ralph E. Campbell	3	21.30
Jno. E. Carland	75	667.75
A. M. J. Cochran	14	85.00
Joseph Cross	22	87.05
A. G. Dayton	81	720.02
Frank S. Dietrich	64	410.05
Frederic Dodge	1	5.80
David P. Dyer	4	39.70
Walter Evans	6	59.00
E. S. Farrington	67	630.00
Clarence Hale	77	503.50
C. H. Hanford	10	88.00
J. R. Hazel	58	580.00
G. C. Holt	26	240.00
J. O. Humphrey	2	20.00
Oscar R. Hundley	20	162.45
W. H. Hunt	31	310.00
Loyal E. Knappen	41	290.30
K. M. Landis	31	275.40
Wm. M. Lanning	6	57.00
Robt. E. Lewis	7	53.60
Jno. E. McCall	70	488.00
H. C. McDowell	16	103.40
Smith McPherson	151	1,361.00
J. L. Martin	65	650.00
Edward R. Meek	8	59.00
T. J. Morris	10	98.00
W. H. Munger	53	372.00
Wm. T. Newman	30	300.00
J. P. Platt	52	520.00
Jno. F. Philips	110	1,006.50
Jno. C. Pollock	86	584.90
T. R. Purnell	64	594.00
J. V. Quarles	7	61.57
G. W. Ray	74	740.00
Jno. A. Riner	29	205.25
Jno. H. Rogers	9	65.50
A. L. Sanborn	64	624.00
Jno. E. Sater	17	116.69
W. B. Sheppard	69	419.51
Henry H. Swan	4	28.53
Jacob Trieber	18	160.00
Wm. C. Van Fleet	14	126.00
E. Waddill, jr	14	125.00
Edward Whitson	98	801.60
F. M. Wright	15	147.50
Chas. E. Wolverton	4	35.00

T. J. Chatfield, at rate of $300 a term under section 613, Revised Statutes, $1,800.

Mr. LODGE. I desire to ask the Senator from Wyoming whether it is proposed that the bill shall be open to amendments to be offered by Senators before it is reported to the Senate?

Mr. WARREN. We have now completed the bill, so far as committee amendments are concerned, and with the consent of the Senate I will pause at this point and let the bill go over. I will ask the Senate to take it up to-morrow morning immediately after the routine morning business.

Mr. CULBERSON. I should like to ask whether under that arrangement the bill will be open to amendment?

Mr. LODGE. Yes. It will be as in Committee of the Whole.

Mr. BEVERIDGE. I understand the process to be that the bill shall be considered as in Committee of the Whole to-morrow and then go into the Senate.

The VICE-PRESIDENT. That is correct.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Friday, January 22, 1909, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 21, 1909.

PROMOTIONS IN THE ARMY.

ORDNANCE DEPARTMENT.

Lieut. Col. Orin B. Mitcham, Ordnance Department, to be colonel from January 21, 1909, vice Lyle, retired from active service.

Maj. John T. Thompson, Ordnance Department, to be lieutenant-colonel from January 21, 1909, vice Mitcham, promoted.

Capt. Edwin D. Bricker, Ordnance Department, to be major from January 21, 1909, vice Thompson, promoted.

APPOINTMENT IN THE ARMY.

MEDICAL RESERVE CORPS.

Edward Holman Skinner, of Missouri, to be first lieutenant, with rank from November 24, 1908.

NOTE.—The above-named person was nominated to the Senate on December 9, 1908, under the name of Herbert Holman Skinner, for appointment to the same office, and was confirmed on January 5, 1909. This message is submitted for the purpose of correcting a clerical error in the name of the nominee.

POSTMASTER.

GEORGIA.

Hattie F. Gilmer to be postmaster at Toccoa, Ga., in place of Hattie F. Gilmer. Incumbent's commission expired February 24, 1907.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 21, 1909.

CONSULS.

Fred D. Fisher, of Oregon, to be consul of the United States of class 5 at Newchwang, China.

Roger S. Greene, of Massachusetts, to be consul of the United States of class 5 at Harbin, Manchuria.

George N. Ifft, of Idaho, to be consul of the United States of class 5 at Nuremberg, Bavaria.

Stuart K. Lupton, of Tennessee, to be consul of the United States of class 9 at Messina, Italy.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

First Lieut. Samuel Black Winram to be captain in the Revenue-Cutter Service of the United States.

Second Lieut. Eben Barker to be first lieutenant in the Revenue-Cutter Service of the United States.

PROMOTIONS IN THE NAVY.

Lieut. Albert W. Marshall to be a lieutenant-commander in the navy.

Lieut. Arthur MacArthur, jr., to be a lieutenant-commander in the navy.

Lieut. Col. Charles A. Doyen to be a colonel in the United States Marine Corps.

Second Lieut. Howard C. Judson to be a first lieutenant in the United States Marine Corps.

POSTMASTERS.

NEW YORK.

Fred A. Green to be postmaster at Copenhagen, N. Y.
John W. Hedges to be postmaster at Pine Plains, N. Y.
George A. McKinnon to be postmaster at Sidney, N. Y.

OHIO.

Charles E. Ainger to be postmaster at Andover, Ohio.
Louis G. Bidwell to be postmaster at Kinsman, Ohio.
John C. Burrow to be postmaster at Cortland, Ohio.
Edward H. Collins to be postmaster at Bedford, Ohio.
Henry H. Dibble to be postmaster at Canal Winchester, Ohio.
John Ellis to be postmaster at Massillon, Ohio.
Herman C. Glander to be postmaster at West Alexandria, Ohio.
Thomas M. Irwin to be postmaster at Fairport Harbor, Ohio.
Thomas L. Knauf to be postmaster at Calla, Ohio.
David F. Owen to be postmaster at Burton, Ohio.
William W. Reed to be postmaster at Kent, Ohio.

OKLAHOMA.

James M. Lusk to be postmaster at Dewey, Okla.
Mary H. McBrian to be postmaster at Ryan, Okla.
Philo R. Smith to be postmaster at Wakita, Okla.

REJECTION.

The following nomination was rejected by the Senate January 21, 1909.

George I. Allen to be postmaster at Middletown, Conn.

WITHDRAWAL.

Executive nomination withdrawn from the Senate January 21, 1909.

Charles Alfred Lee Reed, of Ohio, for appointment as first lieutenant in the Medical Reserve Corps, with rank from January 4, 1909, which was submitted to the Senate on January 6, 1909.

INJUNCTION OF SECRECY REMOVED.

The injunction of secrecy was removed from the following convention:

A naturalization convention between the United States and Nicaragua, signed at Managua on December 7, 1908. (Ex. I, 60th, 2d.)

HOUSE OF REPRESENTATIVES.

THURSDAY, *January 21, 1909.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou eternal and ever living God, our heavenly Father, we bless Thy holy name that Thou hast not left us in this world alone to grope our way in the darkness, but that the light of Thy presence is round about us shining in and through us to illumine our minds, cleanse our hearts; upholding, sustaining, guiding us to right thinking and clean living. That for every tear there are a thousand smiles; for every sorrow a thousand joys; for every crime a thousand noble, generous deeds; for every low and selfish desire a thousand glorious aspirations. That the star of love is in the ascendency leading us onward and upward. Continue, we beseech Thee, Thy presence and help us to do Thy will, and Thine be the praise forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

CONSULATE AT CATANIA, ITALY.

Mr. PERKINS. Mr. Speaker, I ask unanimous consent for the present consideration of the bill which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 26709) to amend an act to provide for the reorganization of the consular service of the United States.

Be it enacted, etc., That the act entitled "An act to provide for the reorganization of the consular service of the United States," approved April 5, 1906, as heretofore amended, is further amended as follows: By striking out, in class 9, consuls, the word "Messina," and by inserting after the word "Carlsbad," in class 7, consuls, the word "Catania."

Mr. CLARK of Missouri. Mr. Speaker, reserving the right to object, I would like to interrogate the gentleman. One feature of this is the substitution of Catania for Messina. Now, what is the other proposition?

Mr. PERKINS. The other proposition is this: Messina was in the ninth class, and consuls in the ninth class receive $2,000. As we all know, the consul at Messina not only incurred the labor of his position, but risk of life besides. At Catania it is hoped no such calamity may occur, but by reason of the earthquake and its results, a very large amount of work will be required; and the committee was of the opinion that for that position in that place with that amount of work, with the possibility of risk, to say no more, $3,000 was not an excessive sum to pay. The pay of the consul at Catania will be $3,000. The pay of the consul at Messina, which is now abolished, was $2,000.

Mr. CLARK of Missouri. I have no doubt that for several years to come it will entail a great deal of extra work, and I have no objection to that. I see something in the bill here about Carlsbad.

Mr. PERKINS. No; the name of Catania is inserted immediately after Carlsbad in the bill.

Mr. CLARK of Missouri. That is all it refers to?

Mr. PERKINS. That is all.

By unanimous consent, the Committee of the Whole House was discharged from the further consideration of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion of Mr. PERKINS to reconsider the last vote was laid on the table.

NAVAL APPROPRIATION BILL.

On motion of Mr. Foss, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26394, the naval appropriation bill, Mr. MANN in the chair.

The CHAIRMAN. When the committee rose on yesterday a point of order was reserved on lines 1 to 4, page 33.

Mr. FOSS. Mr. Chairman, I suggest we go on with the reading of the bill at this time.

The CHAIRMAN. Without objection, the item passed over yesterday will be passed over, and the Clerk will continue the reading of the bill——

Mr. FITZGERALD. Mr. Chairman, there was a paragraph read to which a point of order was made. It was not passed over, but the committee rose.

The CHAIRMAN. The pending point of order reserved by the gentleman from New York was to the first four lines, page 33, and the Chair will hear the gentleman from Illinois upon the point of order.

Mr. FOSS. Mr. Chairman, I do not know that I care to discuss the point of order, but for the information of the Chair I will state that these barracks are not for the extension of any barracks there at the navy-yard. They are separate and are a new proposition.

The CHAIRMAN. Does the gentleman from New York insist upon his point of order?

Mr. FITZGERALD. Mr. Chairman, it seems to me when the naval bill carries $135,000,000, more than any naval bill ever brought in, considering we are facing a deficit of $150,000,000 this coming year, that no condition has necessitated provision at this particular place for marines that requires an appropriation larger than $22,000, and that this is one item that may well be permitted to go over to another year, and I insist upon the point of order.

The CHAIRMAN. The Chair sustains the point of order.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BENNET of New York having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, its reading clerk, announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 6665) for the relief of Charles H. Dickson.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 7675. An act to increase the limit of cost for the enlargement, extension, remodeling, and improvement of the federal building at Sioux Falls, S. Dak.

The message also announced that the Senate had passed without amendment bill and joint resolutions of the following titles:

H. R. 15098. An act to correct the military record of John H. Layne;

H. J. Res. 233. Joint resolution to enable the States of Mississippi and Arkansas to agree upon a boundary line and to determine the jurisdiction of crimes committed on the Mississippi River and adjacent territory; and

H. J. Res. 232. Joint resolution to enable the States of Mississippi and Louisiana to agree upon a boundary line and to determine the jurisdiction of crimes committed on the Mississippi River and adjacent territory.

The message also announced that the Senate had passed the following concurrent resolutions, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 75.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made and submit estimates for the following improvements in the Mattaponi River, Virginia:

For a channel 100 feet wide and 7 feet deep from the above-mentioned landing to Ayletts;

For a channel 60 feet wide and 5 feet deep from Ayletts to Dunkirk;

For a channel 7 feet deep across the Middle Ground connecting the Mattaponi and Pamunkey channels, just off West Point;

For a suitable turning basin at Ayletts;

For the straightening and cutting off certain bends and points of land projecting into the river at several points between Walkerton and Ayletts; and

For a thorough snagging and removal of logs from the river between Walkerton and Dunkirk, and the clearing of the river banks of all trees, stumps, and so forth, which make navigation dangerous at times of extra high tides or freshets in the river.

Senate concurrent resolution 74.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of Rye Harbor, in the State of New Hampshire, with a view to restoring navigation therein, and to submit estimates for the same.

Senate concurrent resolution 73.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, directed to cause a survey and estimate to be made of the Columbia River between Wenatchee and the mouth of the Snake River, in the State of Washington, with a view to making such improvements as may be deemed necessary in order to provide for navigation between the upper and lower river.

Senate concurrent resolution 72.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, directed to cause a survey and estimate to be made of the Swinomish Slough, Washington, with a view to such extensions and modifications of the project for the improvement of the same as may be necessary in the interests of navigation.

Senate concurrent resolution 71.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, directed to cause a survey and estimate to be made of the Samamish River, Washington, with a view to clearing and restoring said river to navigation.

Senate concurrent resolution 70.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey of East Boothbay Harbor, Maine, with a view to extending the improvement contemplated in the report submitted in House Document No. 944, Sixtieth Congress, first session, to Hodgdon's wharf.

Senate concurrent resolution 69.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey of the jetties and channel of Sabine Pass, in the State of Texas, from the 30-foot contour beyond the bar at the entrance to said Sabine Pass to and including the turning basin at Port Arthur, with a view to widening the channel and the Port Arthur Ship Canal to 200 feet at bottom and increasing the depth thereof and of the turning basin to 30 feet at mean low gulf tide, together with the extension of the walls of the existing jetties to the 30-foot contour, and to submit estimates for such improvements.

SEC. 2. That the Secretary of War be, and he is hereby, also authorized and directed to cause to be made an examination and survey of Taylors Bayou and the lumber slip adjacent thereto, with the view of removing the narrow strip of land separating Taylors Bayou and lumber slip and the deepening of said Taylors Bayou and lumber slip for a length of 2,500 feet to a depth of 30 feet.

SEC. 3. That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey of the Neches River from Beaumont to its mouth, and of the Sabine River from Orange to its mouth, and the canal extending from the mouths of the Sabine and Neches rivers to mouth of Taylors Bayou, with a view to widening and deepening said canal to a width of 200 feet at the bottom of said canal and increasing the depth thereof to 30 feet, and with a further view of removing the obstructions in the said rivers and improving the same to a depth of 30 feet.

NAVAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Toward the completion of the marine garrison, naval station, Pearl Harbor, Territory of Hawaii, 1 marine barracks, $135,000; and to complete 6 officers' quarters, $50,000; in all, $185,000.

Mr. MACON. Mr. Chairman, I reserve the point of order against that paragraph.

The CHAIRMAN. The gentleman from Arkansas reserves the point of order.

Mr. MACON. Mr. Chairman, I will say to the chairman of the committee I reserve the point of order against the paragraph providing for the completion of marine garrison, naval station, Pearl Harbor, Territory of Hawaii, 1 marine barracks, $135,000; and to complete 6 officers' quarters, $50,000; in all, $185,000. I would like to ask the gentleman if there is existing law authorizing this work, and if it is in continuation of work already in progress?

Mr. FOSS. Now, I would state last year we passed through this House a bill for the establishment of a navy-yard at Pearl Harbor, and that provision was put on by a Senate amendment to the naval appropriation bill last year and became a law. Now, I will read to the gentleman what that provision is.

Upon this point I would like to have the attention of the Chair. Right here it will be recalled that a naval station was provided for Pearl Harbor, Hawaii, and the language under which it was established is this:

The Secretary of the Navy is hereby authorized and directed to establish a naval station at Pearl Harbor, Hawaii, on the site heretofore acquired for that purpose, and to erect thereat all the necessary machine shops, warehouses, coal sheds, and other necessary buildings, and to build thereat one graving dry dock capable of receiving the largest war vessels of the navy, at a cost not to exceed $2,000,000 for said dry dock.

Now, the question is whether or not, under that authorization, all necessary buildings in connection with the establishment of the navy-yard is not in order. I would say for the information of the Chair that it is a part of the duty of the Marine Corps to garrison our navy-yards, to perform police duty, and to protect them in every way. And it seemed to me that the language was broad enough to carry this provision.

The CHAIRMAN. Will the gentleman from Illinois inform the Chair whether as a matter of fact it is customary to have marines stationed at naval stations?

Mr. FOSS. Yes; it is.

Mr. TAWNEY. At a naval station?

Mr. FOSS. Yes; always.

Mr. BUTLER. Yes.

Mr. FOSS. And there are barracks at every naval station. There are at the present time, Mr. Chairman, 300 marines at this station without any cover whatever except tents.

Mr. FITZGERALD. The rulings have been consistent that unless the building is specifically authorized it can not be provided on an appropriation bill. The Chair is familiar with the rule of construction: General language following specific words can not be used to enlarge the authority given in a statute for any purpose, even under a rule of the House.

Marines at a navy-yard are not a part of its equipment, and the language to which the gentleman refers shows that the purpose of the Congress was to provide a manufacturing or repairing establishment at this place. It seems to me, if it would be in order under that language to erect marine barracks, it would be in order to erect them at any navy-yard in the United States. It is not even in order on a bill of this character to erect any building at a navy-yard unless it is specifically authorized. The precedents are to that effect. It has been held that it is not in order to erect barracks for sailors at a navy-yard, and sailors are much more a part of the navy and the naval service than marines are.

Mr. MACON. If the Chair please, upon the point of order I will say that the authorization is general as carried in the appropriation bill of last year. I call the attention of the Chair to the following language of the act of last year that gentlemen contend authorizes this appropriation:

And to erect thereat all the necessary machine shops, warehouses, coal sheds, and other necessary buildings, and to build thereat one graving dry dock capable of receiving the largest war vessels of the navy, etc.

That language gives authority in a general way to construct necessary buildings, but in the provision in this bill it provides for certain particular buildngs namely:

To complete six officers' quarters, $50,000.

Now, if we can legislate in that way upon an appropriation bill, there would be no limit to this matter whatever until we reached the limit of the authorization, which is $2,000,000. There is nothing to show that these buildings are necessary, and I undertake to say that it is contrary to the policy of the legislation of the House to appropriate for the construction of particular buildings upon an authorization of a general character unless it can be shown that the buildings to be constructed are necessary buildings. I will not undertake to discuss the point made by the gentleman from New York [Mr. FITZGERALD], because he is better informed upon the precedents of the House than I am, but I do not understand that the appropriation carried in this bill is a proper one under the authorization carried in the appropriation bill of a year ago.

Mr. FITZGERALD. I desire to call the attention of the Chair to a precedent, which may have some influence with the Chair. I recollect an instance, which I think will be found in the fourth volume of the Parliamentary Precedents, where the gentleman now occupying the chair made a point of order on a provision for a set of officers' quarters, I believe at New Orleans, and the Chair sustained the point of order raised by the present occupant of the chair. I believe it will be found in section 3758 or 3759, or in that neighborhood. There is no doubt that it should be equally binding, because the language under which that station was established is similar to the language under which this station is established.

The CHAIRMAN. Can the gentleman from New York point out the language under which the naval station at New Orleans was established?

Mr. FITZGERALD. If the Chair will give me time, I shall.

The CHAIRMAN. The Chair is prepared to rule. The item in the bill is:

Toward the completion of the marine garrison, naval station, Pearl Harbor, Territory of Hawaii, one marine barracks, $135,000; and to complete six officers' quarters, $50,000; in all, $185,000.

A point of order is made against the paragraph. The rule is that, unless the item is authorized by existing law, it is not in order on an appropriation bill. The last naval appropriation bill contained this item:

Naval station, Pearl Harbor, Hawaii: The Secretary of the Navy is hereby authorized and directed to establish a naval station at Pearl Harbor, Hawaii, on the site heretofore acquired for that purpose; and to erect thereat all the necessary machine shops, storehouses, coal sheds, and other necessary buildings, and to build thereat one graving dry dock capable of receiving the largest war vessels of the navy, at a cost not to exceed $2,000,000 for said dry dock.

The act of Congress last year plainly authorized the naval station at Pearl Harbor, and enumerated certain buildings which might or might not be necessary at the naval station. It then authorized the erection of other necessary buildings. If the

erection of a marine barracks is a necessary building at a naval station, it would seem that Congress had intended to and has authorized the construction of such a building, as a necessary building at a naval station. And, in the opinion of the Chair, on the statement of the gentleman from Illinois [Mr. Foss], that it is not only customary but necessary to have marine barracks at a naval station, the Chair will overrule the point of order.

The Clerk read as follows:

In all, public works, Marine Corps, $510,000.

Mr. SIMS. Mr. Chairman, I move to strike out the last word for the purpose of calling attention of the Committee of the Whole to the matters referred to by the chairman of the committee in the letter from the Secretary of the Treasury which is printed in the RECORD this morning, bearing on the section of the bill which went out on a point of order yesterday, providing for the continuance of the present railway tracks to the navy-yard in Washington. This is a very important matter, and I anticipate, inasmuch as the Naval Committee of the House has brought in such a provision, that if the same committee in the other body and the Senate embodies a similar provision as an amendment, that in conference that amendment will certainly stand a very good chance to pass, because we act on conference reports as a whole.

Now, Mr. Chairman, a number of years ago—about eight, I think—Congress passed a law to eliminate grade crossings in the District of Columbia, which first authorized the construction of two railway stations, and by subsequent legislation authorized the erection of the Union Station. One of the chief arguments made to the House and the Committee on the District of Columbia for abolishing grade crossings was to get this very line of road out of the middle of the streets of Washington; and it was represented to us that there was on this portion of the road what is known as the "dead angle," on which many fatal accidents had occurred. Congress has spent, through the Government and the District of Columbia, about five and a half millions of dollars in money and property, in order that this danger, with others due to grade crossings, might be removed from the city of Washington. The law required these grade crossings to be removed by last spring—I do not remember the precise date. There was a bill introduced and passed in the Senate authorizing the Pennsylvania Railroad Company in fact, though not in name, to build a road down the Eastern Branch of the Potomac River to, and connecting with, the navy-yard, appropriating $25,000, and giving them the right of way in such of the public streets as might be used. In conference the $25,000 was stricken out, and an amendment authorizing any other railroad that might build a track to a connection with the authorized track to use the same on such terms as might be agreed to; and on failure to agree on such terms, it might be decided by the supreme court of the District of Columbia. That is the law today, giving two years in which to build. That law has not been complied with by the Pennsylvania Railroad Company. Whether or not they can be forced, under the law, to do so, I am not prepared to say; but these grade crossings should be eliminated, and under the provisions of the committee proviso, which went out on a point of order, it would have stayed there indefinitely. In other words, there is no provision for the elimination of this grade crossing by providing for the construction of that road.

I introduced a bill at the last session of Congress authorizing the Navy Department to build the line which we authorized the Pennsylvania Railroad Company to build. That bill passed this House by a unanimous vote by way of substitute for the very provision now in this bill, and every member of the Committee on Naval Affairs voted for that bill, who were present, as I now recall the vote, as the yeas and nays were ordered.

Another bill was introduced by myself at this session, containing identically the same provisions, authorizing and requiring the Navy Department to build this road. The gentleman from Illinois [Mr. Foss], chairman of the Naval Committee, has read a letter from the Secretary of the Treasury, which is, in fact, more a letter from the Secretary of the Navy, in which he estimates the cost at $303,683.33; but that includes four whole squares of land. It is not necessary to have these entire squares. The track only requires 33 feet, and the District Committee in its hearings had a statement from the surveyor of the District of Columbia that every foot of this road could be built upon public property.

But suppose it is true that it would take $303,000. It will take more than that two years from now, with a friendly lawsuit in progress, which can better be characterized as a collusive lawsuit, and an injunction issued against the railroad restraining it from tearing up its tracks, which injunction has been made permanent until May 27, 1910. Why not legislate now and let the Government build a track down to the navy-yard and be done with it? Is the committee conniving at an effort to hold the tracks in the middle of K and Canal streets, where people may be slaughtered ruthlessly?

As I say, it will cost more two years from now. The second vice-president of the Pennsylvania Railroad says in his letter:

Permit me to say that, in my judgment, the United States Government should build and own this track, which is, after all, as much a part of the navy-yard plant as any other constituent portion of it. It is what would be required of a private enterprise under similar conditions.

That is what the second vice-president of the Pennsylvania Railroad says, and I indorse every word he says. Now, why try to get around this in this way, by having an amendment put in here and go out on point of order, and then have it go over to the Senate, and there amended again by inserting the same, and then go to conference, with no opportunity to vote on it separately in this House, but compel us to accept it or vote down the whole naval appropriation bill? If the gentleman wants to carry out the purpose for which the law was enacted, let the bill which I have introduced and which has passed this House be voted as an amendment on this bill, and by the time the injunction expires the railroad will be completed, the navy-yard will have the use of it, and it will be done in conformity with the suggestion of the Pennsylvania Railroad itself.

Now, why put it off for two years? Are we going to put it off always? Are we never going to reach the navy-yard except by a track running through K and Canal streets, right down through the center of the street, right through a public playground where the children have to be roped off to save their lives? This track is serving the garbage plant, which ought to be removed, which is a disgrace to Congress and the District of Columbia to keep it where it is; is serving the Standard Oil Company plant, as well as the navy-yard. Why not take this matter up? Offer an amendment, and I assure you there will be no point of order against it. Permit the Government to do it and have it removed. I hold that it is not necessary to expend the whole $300,000; but even if it is necessary, will you take the chance of murdering women and children on this street, with this railroad not only crossing at grade, but absolutely down the middle of the street? Will you hesitate on account of the dollars and cents involved? I hope the committee will take a proper view of this matter and ask to return to this paragraph and offer the amendment themselves. To-day those very people are being assessed to pay for benefits under the elimination of grade crossings. Yet this dangerous track is proposed by this committee to stay there indefinitely. What kind of justice is it to make these people along that line of road pay for eliminating grade crossings in other parts of the city and keep right at their own doors a railroad track which is a danger to their lives, which destroys the value of their property? I do certainly think the Naval Committee did not give this matter proper consideration. Of course the railroad company will be satisfied to keep it there forever, but they suggest that we build it, and that is a proper suggestion, and it ought to be done.

The bill I introduced provides for $90,000 for construction. The estimate only shows $93,000 for the construction, and the surveyor of the District of Columbia says that every inch of it can go on government property; but suppose it can not? We did not hestitate to build the House Office Building because property owners in that square asked too much for the land. We went ahead and condemned it and erected the building. We can condemn and take this property.

But we do not have to have whole squares. Even if we do, the property will be valuable to the navy-yard, because it is right up against the navy-yard itself.

It will be valuable to the Government to own that property. We can never do it for less money than we can now. I see bills being reported for the acquiring of parks beyond the Eastern Branch of the Potomac, and yet here are $13,000,000 worth of government property at the navy-yard, and the Naval Committee proposes only a temporary makeshift that involves the loss of life and property. I make this statement that the matter may be fully understood, and I hope the Naval Committee will ask to return it to the bill and amend by putting in proper legislation so as to get this track built in two years, as it ought to be done.

Mr. GAINES of Tennessee. Will the gentleman yield for a question?

Mr. SIMS. I will.

Mr. GAINES of Tennessee. Is this provision in the bill that went out yesterday, undertaking to repeal the statute passed on that subject?

Mr. SIMS. Absolutely repealing to that extent the law that was passed for the very purpose of eliminating these grade crossings.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. Crockett, its reading clerk, announced that the Senate had passed bill and joint resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8265. An act to regulate examinations for promotion in the Medical Corps of the army; and

S. R. 115. Joint resolution authorizing the Secretary of War to establish harbor lines in the Kansas River at Kansas City, Kans.

The message also announced that the Senate had passed, with amendment, bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 15452. An act to establish two or more fish-cultural stations on Puget Sound.

NAVAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

BUREAU OF MEDICINE AND SURGERY.

Medical Department: For surgeons' necessaries for vessels in commission, navy-yards, naval stations, Marine Corps, and for the civil establishment at the several naval hospitals, navy-yards, naval laboratory, museum of hygiene, and department of instruction, and Naval Academy, $300,000.

Mr. FOSTER of Illinois. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

After line 18, page 33, insert the following:

"That the Secretary of the Navy may direct, in writing, the Surgeon-General of the Public Health and Marine-Hospital Service to make special investigations into the prevalence of tuberculosis, typhoid fever, rabies, leprosy, and other similar diseases affecting man, the conditions influencing their propagation and spread, and methods necessary for their prevention and suppression. The investigation of rabies shall include the preparation and use of the virus or other substance made in the hygienic laboratory for its prevention in those exposed. The Surgeon-General, with the approval of the said Secretary, is authorized on request of the health authorities of the State, Territory, the District of Columbia, Porto Rico, or the Philippines, to detail officers to cooperate with said authorities in their measures for the protection of the public health.

"That the Secretary of the Navy may direct that the results of the investigations authorized shall be published, and also that there be disseminated by means of sanitary bulletins and exhibits prepared by the Public Health and Marine-Hospital Service practical information concerning the prevention or suppression of tuberculosis, typhoid fever, rabies, leprosy, and other similar diseases pertaining to man."

Mr. FOSS. Mr. Chairman, I make a point of order against that amendment. If I understand it correctly, it relates to the Marine-Hospital Service.

Mr. FOSTER of Illinois. Yes.

Mr. FOSS. It is not in order on this bill, I will say to the gentleman; the naval bill does not appropriate for Marine-Hospital Service. That is appropriated for in the sundry civil bill.

Mr. FOSTER of Illinois. I understand that this Bureau of Medicine and Surgery is controlled by the Marine-Hospital Service, and for that reason I thought the amendment would be germane to this paragraph in the bill. The Secretary of the Navy would have charge of the expenditure of this money.

Mr. FOSS. The navy has nothing to do with the Marine-Hospital Service.

Mr. FOSTER of Illinois. Mr. Chairman, my understanding of the matter is that under the Secretary of the Navy the Bureau of Medicine and Surgery would make the investigation of these diseases. If not a proper place for this amendment, of course I will offer it at another time.

Mr. FOSS. I understand, then, the gentleman withdraws his amendment.

The CHAIRMAN. Does the gentleman from Illinois withdraw his amendment?

Mr. FOSTER of Illinois. No; Mr. Chairman, I will ask for a ruling by the Chair.

The CHAIRMAN. The Public Health and Marine-Hospital Service has nothing to do with the Marine Corps; that service is a branch of the Treasury Department and is not under the Navy Department. Besides, the amendment is purely legislation, and for both reasons, or for a sufficient reason, the Chair sustains the point of order.

Mr. EDWARDS of Georgia. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee a question. What was the last appropriation—how much did it carry?

Mr. FOSS. Two hundred and seventy thousand dollars. This is an increase of $30,000.

The Clerk read as follows:

In all, Bureau of Medicine and Surgery, $424,700.

Mr. EDWARDS of Georgia. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman what increase there is in the total appropriation. I see the total appropriation in this bill is $424,700.

Mr. LOUDENSLAGER. The increase is $39,000.

Mr. EDWARDS of Georgia. What is the increase in the whole bill?

Mr. FOSS. About $13,000,000 over last year.

The Clerk read as follows:

BUREAU OF SUPPLIES AND ACCOUNTS.

Provisions, navy: For provisions and commuted rations for the seamen and marines, which commuted rations may be paid to caterers of messes, in case of death or desertion, upon orders of the commanding officers, commuted rations for officers on sea duty (other than commissioned officers of the line, Medical and Pay Corps, chaplains, chief boatswains, chief gunners, and chief sailmakers) and midshipmen, and commuted rations stopped on account of sick in hospital and credited to the naval hospital fund; subsistence of officers and men unavoidably detained or absent from vessels to which attached under orders (during which subsistence rations to be stopped on board ship and no credit for commutation therefor to be given); and for subsistence of female nurses and navy and marine corps general courts-martial prisoners undergoing imprisonment with sentences of dishonorable discharge from the service at the expiration of such confinement: *Provided*, That the Secretary of the Navy is authorized to commute rations for such general courts-martial prisoners in such amounts as seem to him proper, which may vary in accordance with the location of the naval prison, but which shall in no case exceed 30 cents per diem for each ration so commuted; labor in general storehouses and paymasters' offices in navy-yards, including naval stations maintained in island possessions under the control of the United States, and expenses in handling stores purchased under the naval supply fund; and for the purchase of United States Army emergency rations, as required: *Provided*, That hereafter such stores as the Secretary of the Navy may designate may be procured and sold to officers and enlisted men of the Navy and Marine Corps, also to civilian employees at naval stations beyond the continental limits of the United States and in Alaska, under such regulations as the Secretary of the Navy may prescribe: *And provided further*, That the sum to be paid out of this appropriation, under the direction of the Secretary of the Navy, for chemists and for clerical, inspection, and messenger service in the general storehouses and paymasters' offices of the navy-yards and naval stations for the fiscal year ending June 30, 1910, shall not exceed $447,544.88.

Mr. STAFFORD. Mr. Chairman, I reserve a point of order to the first proviso in the paragraph just read. I would like to ask the chairman of the committee what is the purpose of making this provision for the commutation of rations of certain described prisoners?

Mr. FOSS. To save money. Under the present law the rations are commuted at 30 cents, and under this provision they will be 22 cents. It is only to save money to the Government.

Mr. STAFFORD. From the statement of the chairman that the purpose of the provision is simply in the interest of economy, and that it is a worthy one, I withdraw the point of order.

The Clerk read as follows:

BUREAU OF CONSTRUCTION AND REPAIR.

Construction and repair of vessels: For preservation and completion of vessels on the stocks and in ordinary; purchase of materials and stores of all kinds; steam steerers, pneumatic steerers, steam capstans, steam windlasses, and all other auxiliaries; labor in navy-yards and on foreign stations; purchase of machinery and tools for use in shops; carrying on work of experimental model tank; designing naval vessels; construction and repair of yard craft, lighters, and barges; wear, tear, and repair of vessels afloat; general care, increase, and protection of the navy in the line of construction and repair; incidental expenses for vessels and navy-yards, inspectors' offices, such as photographing, books, professional magazines, plans, stationery, and instruments for drafting room, and for pay of classified force under the bureau, $8,979,144: *Provided*, That no part of this sum shall be applied to the repair of any wooden ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 10 per cent of the estimated cost, appraised in like manner, of a new ship of the same size and like material: *Provided further*, That no part of this sum shall be applied to the repair of any other ship when the estimated cost of such repairs, to be appraised by a competent board of naval officers, shall exceed 20 per cent of the estimated cost, appraised in like manner, of a new ship of the same size and like material: *Provided further*, That nothing herein contained shall deprive the Secretary of the Navy of the authority to order repairs of ships damaged in foreign waters or on the high seas, so far as may be necessary to bring them home. And the Secretary of the Navy is hereby authorized to make expenditures from appropriate funds under the various bureaus for repairs and changes on the vessels herein named, in an amount not to exceed the sum specified for each vessel, respectively, as follows: Maine (in addition to the $200,000 authorized by the naval appropriation act approved May 13, 1908), $520,000; Missouri, $540,000; Ohio, $540,000; Wisconsin, $380,000; Chattanooga, $210,000; Cleveland, $210,000; Denver, $210,000; Des Moines, $210,000; Galveston, $210,000; Tacoma, $210,000; Concord, $152,000; Yorktown, $152,000; Elcano, $35,000; Paragua, $20,000; Quiros, $30,500; Rodgers, 42,000; Rainbow, $140,000; Supply, $130,000; Yankee, $195,000; Apache, $21,500; Lincoln, $6,000; in all, $4,176,000, as per the letters of the Secretary of the Navy, House Documents Nos. 1152 and 1306, Sixtieth Congress, concerning repairs of certain naval vessels: *Provided further*, That the sum to be paid out of this appropriation under the direction of the Secretary of the Navy for clerical, drafting, inspection, and messenger service in

navy-yards, naval stations, and offices of superintending naval constructors for the fiscal year ending June 30, 1910, shall not exceed $808,039.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word for the purpose of obtaining some information. I notice in the enumeration of battle ships for which repairs are provided in the item just read that there are many bearing the same amount, namely, that to the *Chattanooga*, the *Cleveland*, the *Denver*, the *Des Moines*, the *Galveston*, the *Tacoma*, each carrying an appropriation of $210,000. I would like to ask the chairman of the committee whether there are any repairs of a special character that are covered by that stated amount?

Mr. FOSS. This comes to us all itemized, generally. I do not know that there is any special significance in the fact that the same amount is carried for each one, unless it be that these vessels are in the same class, and about the same amount would be necessary for their general overhauling.

Mr. STAFFORD. Is it intended to make alterations on them of a like kind that will involve the same amount of expense, or is it in the nature of repairs solely?

Mr. FOSS. In the nature of repairs, a general overhauling.

Mr. STAFFORD. Can the gentleman describe what repairs are necessary to keep these battle ships in order so as to make them valuable as a fighting arm of the Government?

Mr. FOSS. Oh, well, take, for instance, the *Ohio*. There has to be a general overhauling of the *Ohio*, changes in the battery and the magazines, and so forth, to bring the ship up in accordance with the present practice, miscellaneous improvements, and alterations necessary for the safety of the ship. That is a ship which was built a number of years ago, and it is necessary in order to bring that up to the highest standard of efficiency that these alterations and repairs should be made from time to time.

Mr. STAFFORD. Has any data ever been presented to the committee as to what is the average cost for making repairs to provide for the usual wear and tear of a battle ship each year?

Mr. FOSS. No; I do not know that we have any data on that that I can furnish the gentleman. It depends entirely on the new improvements that are taking place all the time.

Mr. BUTLER. And on the use that is given the ship.

Mr. FOSS. Yes, on the use of the ship; how much she is in commission.

Mr. STAFFORD. There results naturally from the ship being used in the ordinary way during the year certain wear and tear that has to be repaired every so often?

Mr. FOSS. Yes.

Mr. STAFFORD. Can not the gentleman give any idea as to the amount yearly that would be required to meet the ordinary wear and tear?

Mr. FOSS. I could not.

Mr. STAFFORD. The committee has never received any information from the department as to what would be considered necessary to keep a battle ship in condition each year?

Mr. FOSS. No; it depends on so many circumstances, upon her use, that it is impossible to tell; but the department has sent us a special document here, Document No. 1152, and also a supplementary document, 1306, in which the department estimates on the repairs for these ships specifically.

Mr. STAFFORD. Following the suggestion of the gentleman's colleague, the gentleman from Pennsylvania [Mr. BUTLER], that it varies with the use of the ship, I suppose that by reason of the tour around the world of our Atlantic Squadron the repairs to the fleet when it returns home will be much in excess of the ordinary and will require large sums of money to put the fleet again into commission.

Mr. FOSS. One can not tell anything about that until the ships get home.

Mr. STAFFORD. The gentleman can not tell as to the extent?

Mr. FOSS. No.

Mr. STAFFORD. But arguing from general principles, the ships being in continual use they will require much more repairs than they otherwise would.

Mr. FOSS. Undoubtedly.

Mr. STAFFORD. And particularly having been away from navy-yards for the ordinary repairs during that period.

Mr. FOSS. Undoubtedly.

Mr. TAWNEY. Mr. Chairman, I move to strike out the last word. This provision carries an appropriation of $4,154,500 for the repairs of vessels. How much was carried last year for the same purpose—that is, for the purpose of repairing other vessels?

Mr. FOSS. I do not recall the amount.

Mr. TAWNEY. My recollection is that it is between four and five millions or about five millions.

Mr. FOSS. Here it is—$5,788,000.

Mr. TAWNEY. So that in two years we will have appropriated about $100,000,000 for the reconstruction of vessels?

Mr. FOSS. Well, I will not say "reconstruction."

Mr. TAWNEY. Well, repairs that are in excess of $200,000 per vessel.

Mr. FOSS. Yes.

Mr. TAWNEY. I desire to call the attention of the committee to this fact. I have gone through this report, Document 1152. The supplementary document I did not receive, although I sent for it. The first vessel on which it is proposed to expend in excess of $200,000 is the *Maine*. The amount to be expended in the reconstruction of the *Maine* is $520,000. Now, the *Maine* was commissioned December 22, 1902, only six years ago.

Mr. PADGETT. Will the gentleman permit just one word there?

Mr. TAWNEY. Yes, sir.

Mr. PADGETT. That $520,000 is in addition to $200,000 authorized in the bill of last year.

Mr. TAWNEY. I was going to inquire whether or not we had appropriated about $200,000 for the *Maine* last year. That makes $720,000 we are appropriating for the repair or reconstruction of a vessel that has not been in commission to exceed six years.

Mr. SABATH. Will the gentleman permit a question?

Mr. TAWNEY. Yes, sir.

Mr. SABATH. Can the gentleman give us the information as to by whom the *Maine* was built?

Mr. TAWNEY. I can not tell the gentleman where the *Maine* was built or who built it.

Mr. BUTLER. It was built at Philadelphia by the Cramps. The new *Maine*, does the gentleman inquire about?

Mr. SABATH. Yes.

Mr. BUTLER. The new *Maine* was built at the Cramps' shipyard, Philadelphia, nine or ten years ago.

Mr. SABATH. In 1902.

Mr. BUTLER. 1902, seven years ago.

Mr. SABATH. So it has been in commission about six years.

Mr. TAWNEY. She was commissioned December 22, 1902, just about six years ago. The next vessel is the *Missouri*. The amount estimated for the repair or reconstruction during the fiscal year 1910 of this vessel is $540,000. I will ask the gentleman from Tennessee if there were any appropriations made at the last session of Congress for the repair of the *Missouri*?

Mr. PADGETT. No, sir.

Mr. TAWNEY. The *Missouri* was commissioned December 1, 1903. The *Missouri* has been in commission only five years, and now in order to repair or reconstruct her we are asked to appropriate $540,000, or over a half million dollars. The next vessel is the *Ohio*. The amount estimated to be appropriated for the *Ohio* is $540,000, and the *Ohio* was originally commissioned October 4, 1904, only four years ago. The *Wisconsin*, $380,000, and she was commissioned February 4, 1901. Then there are six vessels of the *Chattanooga* class which require overhauling during the fiscal year 1910. They were commissioned on the following dates: The *Chattanooga*, October 11, 1904; the *Cleveland*, November 2, 1903; the *Denver*, May 17, 1904; the *Des Moines*, March 5, 1904; the *Galveston*, February 15, 1905, less than three years ago; and the *Tacoma*, January 30, 1904.

Mr. BATES. Mr. Chairman, will the gentleman allow me to ask him a question?

Mr. TAWNEY. Yes.

Mr. BATES. The gentleman from Minnesota is aware that these vessels have been in active commission ever since then?

Mr. TAWNEY. These I last named; yes.

Mr. BATES. Is the gentleman aware that vessels in active use need to be repaired not only once in five years, but every year?

Mr. TAWNEY. They may need such repairs as they would ordinarily need if the vessels have been properly constructed in the first place. There is the ordinary wear and tear necessary on the vessel, and this provision was put in the naval appropriation two years ago for the purpose of bringing to Congress information as to the amount of money that was being expended annually in the reconstruction of our navy, and now it transpires——

Mr. HEPBURN. Mr. Chairman, I would like to ask the gentleman if these repairs are to the hulls or the machinery of the vessels?

Mr. LOUDENSLAGER. Both.

Mr. TAWNEY. I will read the memoranda in Document No. 1152.

Mr. DOUGLAS. Will not the gentleman finish about these cruisers first?

Mr. TAWNEY. I will answer the gentleman from Iowa first. I will read the memoranda in House Document 1152 contained in the letter of the Secretary of the Treasury:

Maine.—General overhauling under all bureaus, including the installation of new boilers by the Bureau of Steam Engineering and the work in connection therewith under the other bureaus; modifications of the battery and magazines to bring them into accord with the present practice; general overhauling and renewal, where necessary, of the electric plant; installing ammunition hoists and other turret fittings to bring the vessel into accord with current practice; miscellaneous alterations and improvements absolutely necessary for the safety and efficiency of the vessel.

Much of the money appropriated for the repair of this vessel will not be expended for repair, but in new improvements made necessary by the change of policy in connection with the construction and operation of these vessels.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that his time be extended ten minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. OLCOTT. Will the gentleman yield for a minute?

Mr. TAWNEY. I have answered the question of the gentleman from Iowa [Mr. HEPBURN], and I will now answer the question of the gentleman from New York.

Mr. OLCOTT. Is not some of the money expended because of the advance in the science of naval architecture?

Mr. TAWNEY. Yes, sir.

Mr. HEPBURN. Mr. Chairman, I would like to ask the gentleman another question. Is it not true that a very large percentage of the repairs that are necessary, especially to machinery, results from the fact that there are no engineers in the navy, that there are no competent men in charge of the vast machinery of one of these great ships?

Mr. TAWNEY. I am informed, I will say to the gentleman from Iowa, that much of the deterioration in the machinery of our naval vessels is due to the inefficiency of the men who are in charge of that machinery. I can not, however, state it as a fact, but that is my information.

Mr. HEPBURN. Is it not true, as a matter of fact, that all of this vast machinery is in charge of warrant officers alone?

Mr. TAWNEY. I understand that is a fact.

Mr. HULL of Iowa. Are they not graduates of the academy at Annapolis?

Mr. HEPBURN. Undoubtedly; but the gentleman will remember that a few years ago one-half of the cadets at the Naval Academy were educated as engineers, to be in charge of the machinery of these great vessels. A few years ago a change was made, and that part of the education of the cadets ceased to be given, and we now have no engineers of that character.

Mr. HULL of Iowa. I will say to my colleague that such is not my understanding. My understanding is simply to put in, first, line officers. All cadets are educated in engineering, and those that are especially adapted to the engineering course are assigned.

Mr. TAWNEY. I do not wish to be diverted here entirely from what I intended to call attention to. The item of over $4,000,000 is for repair on vessels where the repair exceeds $200,000. In addition to that, this same paragraph carries an appropriation for repairs of $8,979,144.

Mr. FOSS. No; not in addition. The other is only a limitation of that.

Mr. LOUDENSLAGER. It includes the $4,000,000.

Mr. TAWNEY. I did not have time to read it. The total, then, for the reconstruction and repair of naval vessels is almost ten million, in addition to the new construction authorized, which amounts to $15,000,000.

Mr. FOSS. That is not pertinent to the discussion.

Mr. TAWNEY. I understand, but it shows what we are paying for construction, both new construction and reconstruction. Until two years ago the reconstruction of these vessels was effected by the use of appropriations made generally to the various bureaus of the department, without Congress knowing what we were paying for reconstruction; and it was upon my motion two years ago, I think it was, that an amendment was placed on the naval appropriation bill requiring specific estimates where the expenditure for repairs exceeded $200,000. And now we find that the reconstruction, aside from the ordinary repairs, is costing the Government of the United States at the rate of about $5,000,000 a year, and on vessels, too, Mr. Chairman, not yet in commission to exceed an average of four and a half years. If we are going to continue our present policy in respect to a greater navy, where will we ultimately land when the vessels now being authorized are commissioned and placed in service, when it will require anywhere from two million to four or five million dollars every few years to reconstruct them? I wanted to call attention to the enormous expenditure for the reconstruction of vessels outside of the ordinary repairs on vessels that have not been in commission to exceed four or five years.

It is a reconstruction, according to the statement of the Secretary of the Navy himself, of parts of the vessel, not a reconstruction of the entire vessel—a reconstruction made necessary by the advance in naval architecture, a science that has, it is claimed, advanced more rapidly in this country in the last few years than any other science; and it is only another argument, Mr. Chairman, why we should go a little slower in the matter of building up and extending our navy by the authorization of enormous battle ships.

Mr. KEIFER. Mr. Chairman——

Mr. COX of Indiana. What would the gentleman suggest to remedy the evil?

Mr. TAWNEY. Stop building ships for a little while, and reconstruct those that we have, in accordance with the present views of advanced naval architecture.

Mr. COX of Indiana. I agree with the gentleman.

Mr. KEIFER. Mr. Chairman, only a word. I think there was a misapprehension as to the nature of the authorization. In answer to a question by the gentleman from Michigan to the chairman of the committee, he stated that the sums were largely for repairs. That is hardly true. The repairs alone would amount to a comparatively small amount of money to be expended on the several ships. But the bill does provide exactly how and for what purpose these several appropriations to the several ships is to be applied. Reading from the provision:

And the Secretary of the Navy is hereby authorized to make expenditures from the appropriate funds of the various bureaus for repairs and changes on the vessels herein named in an amount not to exceed the amount specified for each vessel, respectively, as follows:

Then follow the names, mentioning the *Maine*, the *Missouri*, and so on. So these large sums are to be expended not for repairs alone, but very largely for changes.

Mr. TAWNEY. Reconstruction.

Mr. KEIFER. Changes to be made in these vessels. The gentleman from Minnesota says reconstruction. That may be the same thing as changes. The great advance in discoveries in the highest class of battle ships made in recent years makes it necessary that we should make changes in all these ships, and therefore it is necessary that large sums of money be appropriated for that purpose. Now, I am not able to tell when we are ever going to be through with inventions and discoveries to improve battle ships, in armor, and so forth, whatever it may be; but if we are going to keep abreast of the nations of the world that have navies, we will have to keep our ships that we built a few years ago up to the highest standard, or they will have to go out of commission, and I think these appropriations are wise.

Mr. TAWNEY. Will the gentleman permit an interruption?

Mr. KEIFER. Certainly.

Mr. TAWNEY. I want to call your attention, and the attention of Members of the House and members of the committee, to the way in which the estimates for these changes and the reconstruction of different parts of vessels are made. We appropriated for reconstruction and repair of one vessel in the last session of Congress. A board of survey condemned the boilers in that vessel and bids or proposals were invited for new boilers. When the proposals were received and the bids were opened, for some reason unknown to me, at least, the department concluded that it was not necessary to put in new boilers, and they refused or rejected all the bids. They determined that they would continue the use of these boilers for some time to come, showing that there had been no thorough investigation as to the condition of the boilers prior to the time the authorization for new boilers was asked, or else the proposal which was the lowest was not satisfactory to the department.

Mr. KEIFER. That speech, which I am willing to adopt, supposing the gentleman was going to ask a question, is a criticism upon the way the money is expended and does not reach the question of the wisdom of the expenditure of money in the matter of repairs and changes of these battle ships.

I was going to suggest that I think the gentleman from Iowa [Mr. HEPBURN] is mistaken when he says, without qualification, as I understood him, that there are no competent engineer officers in charge of the boilers and machinery of these great battle ships. I do not think there is any such condition on a single one of them. There may be certain warrant officers having special charge of certain parts or several of them, but there is a detailed competent engineer, nearly as competent as they can be made by education and experience, in charge of all these battle ships. I think the gentleman has had some

misinformation on that subject. The midshipmen at the Naval Academy are all educated, and they are expected to be highly educated in engineering of that character. Their education is of the kind that specially qualifies them as competent engineers to take charge of the complicated machinery of our battle ships.

Mr. BUTLER. Mr. Chairman, the gentleman from Iowa [Mr. HEPBURN] has it in his mind that the machinery of these battle ships and cruisers is in the hands of men who are incompetent. I think that the gentleman from Iowa may, perhaps, draw his conclusion or his query may arise because in these days engineering is not taught as a specialty in the Naval Academy. Gentlemen will remember that prior to 1899 the profession of engineering was given great attention by the United States Government. The gentleman will remember that in the year 1899 Congress passed a law, known as the "personnel act," by which the line and the staff of the navy—the part of the staff including the Engineer Corps—were consolidated.

If the gentleman from Iowa will give me his attention a few minutes, I will state to him that since the passage of that law the curriculum at the Naval Academy has changed. All the young men appointed there now are taught mechanical engineering.

I was one of the men who advocated the consolidation. I am willing now, in the presence of my colleagues, to admit I believe I made a mistake. I believe this is the day of specialty, and I believe that the men who have charge of this machinery ought to have charge of it alone and not be taken from the engine room to stand watch on deck. I advocated, in 1899, that this consolidation might take place, and this is one of the effects of the consolidation. At the Naval Academy in these days the young men are taught engineering as well as seamanship. The same course of study is given to all the young men, while prior to 1899 they were taught engineering specially. They were specially educated for this service, their proficiency was reported to the department, and those who made the best marks at the academy were given preference, I understand, by assignment to the Engineer Corps—not civil, but mechanical engineering corps.

Now, I desire to say to my friend the best information we can obtain satisfies us that the machinery on the ships is still in good condition.

I believe it to be the intention of the Committee on Naval Affairs to find out whether, after this long journey around the world has been concluded, the machinery is still in good condition. We intend, further, to ascertain who has had charge of this machinery. From this we can learn much of the effect of the consolidation of 1899. It is true that a good deal of its operation is in the hands of the warrant machinist. He is a man without the technical education that the young men receive at Annapolis. In this day, when the specialist is in demand, when he is employed because of his skill specialized, I believe it is impossible to include in that list line officers of the United States Navy graduated since 1899. The study is too great, the curriculum too long. Too much time must be employed in covering all the different subjects, and the boy can not specialize. He leaves his books a combination of sailor and engineer.

These warrant machinists need no defense. While they do not have the technical education received at these schools, yet, in my judgment, they compose one of the most important classes of men in the United States Navy. They are practical men. They are employed by the Department after having been subjected to a severe test. They must show that they have had long experience in charge of machinery. Their's is what I might call a process of promotion and graduation. When a man enlists in the navy as a mechanic, he is given, I believe, the grade of machinist; and after years of service, if he can show his efficiency he is promoted and warranted and paid quite a respectable sum, perhaps $1,500 or $1,800 a year.

The control of the engine room is still in the hands of a graduate of Annapolis; but the practical management of the machinery is, I am told, largely in the hands of the warrant machinist. The question is whether or not the officer who has control of the discipline of the engine room, and who has imposed on him the responsibility for the careful management of the machinery, has had sufficient education, sufficient time in his preparation to qualify himself, as he did heretofore. I doubt it. Does my friend from Iowa desire to ask me any questions?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. HEPBURN. I simply want to ask the gentleman if it is not true that since 1899, since competent men were taken away from the charge of the engines, and the Navy Department concluded to do without competent engineers in the charge of its vast machinery, the item for repairs of boilers and machinery in these vessels has very greatly increased?

The CHAIRMAN. If there be no objection, the time of the gentleman from Pennsylvania will be extended five minutes.

Mr. BUTLER. I can not answer the gentleman with the precision that I know he always demands in answer to his questions. We know that the expenditures on repairs on these ships have greatly increased in recent years. We believe, however, that is because of the greater service of the ships, and because there is more machinery and perhaps more delicate machinery, machinery that has been improved by skillful men, which is being tried by the department. More repairs are necessary, because there are more ships to repair. I can not answer the gentleman's question definitely, but it will be the purpose of this committee to ascertain whether or not he is right in his belief.

I would not, however, want the gentleman to conclude that the machinery is in the hands of incompetent men. While their competency should be conceded, my friend and I will agree that the efficiency of a man may be increased by specializing.

Mr. TAWNEY. Will the gentleman permit a question?

Mr. BUTLER. Yes.

Mr. TAWNEY. Do you make any distinction between theoretical competency and practical competency?

Mr. BUTLER. I believe in a practical competency. I believe that the ability of a man to manage machinery and to do all the technical work incident thereto may be acquired by practice. And it is the observation of the gentleman from Minnesota, as well as my own, that there are many men in important positions in life, where a technical knowledge is required to enable them to do their work well, who have never received a technical education at an institution where such education is offered. Men have done well on practical lines, and I know that it is the purpose of the department in procuring warrant machinists to procure the very highest possible skill. I do know that in this day, where engineers are employed to manage and care for machinery in great industrial establishments, they are usually asked for certificates showing from what institutions they graduated that the employers may know the amount and extent of the theoretical knowledge which the applicant is likely to possess.

Mr. MACON. In view of the views advanced by the gentleman from Tennessee [Mr. GAINES] the other day, when he stated that he had a dentist in his town, a born dentist, does not the gentleman think that we also have born machinists and born engineers?

Mr. BUTLER. If I were going to have a tooth pulled, I would rather have it pulled by an unborn dentist than by one already born, because it would not hurt so much. [Laughter.]

Mr. MACON. But does not he think that engineers are largely persons born with that kind of a taste for machinery?

Mr. BUTLER. I agree with the gentleman that men are naturally born to do special duties.

Mr. MACON. Born machinists?

Mr. BUTLER. Yes; men that have an inclination to handle machinery, and the Navy Department is in search for just such men; and before these machinists are warranted and given important duties they are required to take a technical examination and to show their exact fitness, and this much this whole House can prove.

Mr. COX of Indiana. Can the gentleman tell the House what was the original cost of these five vessels requiring $210,000 each for repair?

Mr. BUTLER. The gentleman has asked me a question that will stump me. If the gentleman will permit the Clerk to turn to the records, he can perhaps give him the information. They were expensive ships; they were built at a time when we had perhaps to do more guessing than now; they were built six or eight years ago. The ships referred to are not armored ships, they are not armored cruisers, they are not scouting cruisers, but ships kept in motion most of the time, just as my friend would understand an all-day wagon run every day in the week and Sundays, and thus they require more repairs. I do not know whether the estimates for repairs are extravagant or not. It is impossible, much as we may desire to learn, for us civilians, who have no particular training along these lines, to raise a dispute with those better educated over the estimate for repairs upon the ships. We have set the amount beyond which the department can not exceed for the repairs.

Mr. COX of Indiana. Up to this time the gentleman understands that I am not quarreling with him?

Mr. BUTLER. Oh, no.

Mr. COX of Indiana. I am simply trying to get the original cost of these ships for information.

Mr. GAINES of Tennessee. A war ship costs $10,000,000.

Mr. BUTLER. These are not large war ships to which the gentleman calls attention.

Mr. TAWNEY. We can not get at the original cost, I will say to the gentleman. The original cost continues and is constantly changing.

Mr. SABATH. And increases from day to day.

Mr. BUTLER. As nearly as I can work out this list of figures, the *Galveston* originally cost $1,736,774.23. The *Tacoma* cost $1,398,781.75. These are what are known as "protected cruisers." They have no side armor, but they have a sort of protected deck, a deck which is covered with steel, as I am told by those who do know, the purpose of which is a protection serving to keep the shells of the enemy out of the engine room. Therefore they are called "protected cruisers."

Mr. HULL of Iowa. Mr. Chairman, the question of my colleague from Iowa indicates that the course at Annapolis is not now developing officers of the navy competent to take charge of this complicated machinery, and the answers of the members of the Naval Committee I think fully justifies the conclusion of my colleague from Iowa. I confess, Mr. Chairman, that this somewhat startles me. I was under the impression that the course of instruction at the Naval Academy was thorough in this line of mechanical engineering, and that they graduated these cadets competent to take charge of all the machinery of a great war vessel.

Mr. BUTLER. The gentleman will recall the fact that at all technical schools—the Boston School of Technology, the school at Cornell and in Chicago, and in other institutions where mechanics are taught four years are required on this one branch alone, and I am told that it is the purpose of the institutions to increase it one year more and make the term five years in order to turn out what they understand is a first-class theoretical cadet, and that after they have been through another college.

Mr. HULL of Iowa. Mr. Chairman, the condition of affairs in the war ships, before the consolidation of the staff and the line and its management, was substantially the same as now. They then had the so-called "warrant officers," who did the large amount of the practical work in the engine room, commissioned officers having charge. It has not been very long since an eminent naval officer—I think it was Admiral Melville—in a magazine article stated that the battles of the future on the sea would be largely fought in the engineer room below the decks. I think probably that is true, and it seems to me—and all I desire now is to call the attention of the country to the fact, if it is a fact—that this great school at Annapolis training officers to take charge of our ships not only above the deck, but below the decks, should have its course so adjusted as to insure to the country the best service in the engine room as well as above it; and I believe from my knowledge of the officers that they are competent to do that, and for one Member of this House I am not willing to concede that the Naval Academy does not turn out trained officers who are competent from the bridge to the engine room to command every part of these great war vessels. I do not believe these repairs are made necessary because of a deterioration in the officers of the navy, but that they are necessary because of the great use that is made of the war ships. It may not be necessary to expend this amount. It is largely an estimate on the part of the officers of the Government as well as the Naval Committee. No one can figure absolutely and accurately what will be necessary to repair a ship until it is put upon the ways. You can make an estimate that will approximate it, and, as I understand it, the Naval Committee in this matter has simply gone to the point of putting in the bill what they believe is ample, and putting it as a limitation on the total cost for each vessel.

Mr. TAWNEY. Will the gentleman permit a question?

Mr. HULL of Iowa. Yes.

Mr. TAWNEY. Does not the gentleman think it would be wise for Congress to require the Navy Department to report to Congress annually the expenditure of appropriations made on these vessels for the purpose of ascertaining the manner in which that expenditure was made, and the purpose for which it was made?

Mr. HULL of Iowa. Oh, yes; but that does not affect this bill. I rise in my place only to correct what I believe will go out to the country as a misapprehension of the real condition of affairs at our Naval Academy and in our navy. I believe as a man that knows no more about it than any other man here, except as I have been interested in these questions probably more than some, that our naval officers to-day are as competent, as able, and as faithful in the discharge of all their duties as they were before the personnel bill passed.

Mr. BUTLER. Let me ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield?

Mr. HULL of Iowa. Yes.

Mr. BUTLER. I understand the curriculum at West Point requires each student to study engineering.

Mr. HULL of Iowa. Yes.

Mr. BUTLER. Is it not a fact that before a student goes into the Engineer Corps he is given four years' additional technical instruction?

Mr. HULL of Iowa. No.

Mr. BUTLER. Is he given any additional instruction?

Mr. HULL of Iowa. The students graduating highest are put in the Engineer Corps—the men who graduate at the head of their class. The number that is taken is governed by the necessities of the corps the year the class graduates. It has been as low as one and it has been as high as seven. After they are assigned there they are commissioned in the Engineer Corps; they are given a thorough electrical course of two years' study, but they are engineer officers all the time, and my understanding is the authorities can take the same class of students at Annapolis, take the highest class, in whatever number is needed for the engineer work of the navy and assign them as engineers; that they then go on shipboard for two years more, and there they complete the course in engineering.

Mr. TALBOTT. We do not educate the boys in steam engineering at West Point.

Mr. HULL of Iowa. Of course not. The gentleman knows more about Annapolis than I do.

Mr. TALBOTT. We do not educate them in steam engineering. An engineer in the army is altogether different from an engineer in the navy.

Mr. HULL of Iowa. Altogether different; there is no parallel between them at all.

Mr. GAINES of Tennessee. I would like to ask the gentleman how the cost of these repairs in time of peace compare with the repairs of ships that came out of the Spanish war?

Mr. HULL of Iowa. We did not have anything to do with anything but transports. They are entirely a different ship and no comparison can be instituted at all. We have rebuilt nearly all of our transports since we bought them.

Mr. GAINES of Tennessee. Did we use transports during the civil war?

Mr. HULL of Iowa. Oh, yes. We bought a whole lot of freighters in the Spanish war—old vessels—and converted them into transports.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOSS rose.

The CHAIRMAN. The Chair will recognize the gentleman from Illinois.

Mr. FOSS. Mr. Chairman, I yield one minute to the gentleman from Pennsylvania [Mr. BUTLER].

Mr. BUTLER. Mr. Chairman, I do not think it is in the mind, certainly not in the mouth, of any of us to criticise these gentlemen who command these ships. They are good Americans and are well trained for their duties, and when put to the test, whatever that test may be, they will be equal to it. What I have endeavored to say to the committee was this, that I doubt whether or not in four years, having all the duties to perform that they have assigned them at Annapolis, they could qualify themselves as engineers as well as though they had spent four years in the pursuit of that one study alone. When a young man graduates at Annapolis and aspires to become a constructing engineer or a naval constructor, if designated by the department, he is sent to some school by the Government, so that he may have a chance in three or four years to especially equip himself. My idea is that those gentlemen, who graduate at Annapolis who desire to become engineers, ought to have the same opportunity afforded them, and we will ask Congress to listen to us some day along this line.

Mr. TAWNEY. Mr. Chairman, a moment ago when the gentleman from Ohio was addressing the committee on the subject of the repair of naval vessels I interrupted him and called attention to the carelessness with which estimates for these repairs are made. I cited from memory an instance which was brought to my attention when the present session of Congress began. Since then I have had handed to me the hearings before the Committee on Naval Affairs, which verify the statement that I made; not only verify my statement, but show the conditions to be even worse than I had supposed they were. I read from the hearings, on page 191:

Mr. PADGETT. In the last appropriation bill we authorized a large amount of money for repairs on certain named ships, and among them $600,000 for the *Alabama*. Was that amount expended on the *Alabama*?

Commander GRIFFIN. I do not think a dollar has been expended yet.

Mr. PADGETT. Why?

Commander GRIFFIN. She has just returned from her trip around the world, and a general survey has just been held on the ship. In fact, the report has not yet been made to the department. The authorization

for work on her involves an estimated expenditure of $175,000 under the Bureau of Steam Engineering, the remainder being under the other bureaus. No action has been taken on the survey.

Now, this appropriation was made and submitted a year ago to the Committee on Naval Affairs for $600,000 to repair the *Alabama*, when there had been no survey made. I had supposed a survey had been made, but it seems there was no survey made.

Mr. PADGETT. Was a survey made before this estimate for $600,000 was submitted and the appropriation procured at the last session of Congress?

Commander GRIFFIN. No, sir; not to my knowledge. I should say that no general survey had been held, but the estimates were made up from expenditures for work of a similar character on other ships. For instance, we had a general survey on the *Oregon* and on the *Massachusetts* and *Indiana*, all battle ships, and I suppose the estimates——

Mr. PADGETT (interrupting). Do I understand that you make a survey on the *Oregon*, and you ask then $600,000 for the *Alabama*?

Commander GRIFFIN. Not the same as the estimate for the *Oregon* necessarily, because the conditions differ materially in different ships, but they would be based largely on the character of work found necessary in another ship of that type.

Mr. PADGETT. Do I understand that the department or the bureaus will ask Congress and this committee for an appropriation of $600,000 for a specific ship without making an investigation or survey of that ship to know what is best and what is needed?

Commander GRIFFIN. We know from the reports that come from the ship. For instance, in the Bureau of Steam Engineering we have quarterly reports that give the condition of the machinery and we keep a record showing the general wear and tear, so that we can tell at any time just what the condition of the machinery is.

Mr. PADGETT. Just at that point: Were not bids advertised for for the new boilers for the *Alabama*?

Commander GRIFFIN. Yes, sir.

Mr. PADGETT. How many bids were received?

Commander GRIFFIN. Two.

Mr. PADGETT. What was the action taken on those bids?

Commander GRIFFIN. There was no action taken by the department.

Mr. PADGETT. As a matter of fact, have not both of those bids been rejected and the department determined not to put in new boilers for the present, because they said that the present boilers are good and sufficient?

Commander GRIFFIN. So far as the Bureau of Steam Engineering has any knowledge of the matter, the department has not so decided, but I think, from conversation with members of the Board of Inspection and Survey, that that will be the decision of the department; at any rate, it will be the recommendation of the Board of Inspection and Survey.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAWNEY. Just two minutes more. Mr. Chairman, I want to emphasize this fact that here we are appropriating money on estimates submitted by the department amounting, for the repair or reconstruction of vessels, to over $9,000,000, when we have here the fact which conclusively proves that the estimates are not based on any tangible evidence of the necessity for the repairs. In this particular case, after we had given them the money to repair the *Alabama* and they had invited proposals for the placing of new boilers in that vessel, they found out they did not need any new boilers at all, and therefore rejected both bids which were received for the purpose of putting in new boilers. How many more of these vessels we have appropriated for and are to-day appropriating for are to be repaired upon the same basis there is no evidence. I cannot find from the hearings that the committee has made any investigation as to what the basis of these estimates was or whether a survey had been made in advance. Here is a vessel on a trip around the world when we were appropriating $600,000 for her repair, and I hope that when these estimates for reconstruction and repairs are hereafter made that they will be based upon the condition of the vessel as found after a careful investigation or surveyed by a competent board.

Mr. FOSS. Mr. Chairman, I desire to say only a word or so about this subject of repairs. Reports are continually received here from the ships, wherever they are, as to their condition, and these estimates are made up from those reports. If we waited until the ships came into port and then had a survey and then sent an estimate to Congress, we might have to wait a whole year before we could begin any repairs upon these ships. Now, the chiefs of these bureaus, the Bureau of Construction and Repair and the Bureau of Steam Engineering, know, and it has been their experience, that every four or five years we have to have a general overhauling of our ships in order to bring them up to a high state of efficiency, and they know in round numbers how much it will cost to make that overhauling.

Gentlemen have objected to $500,000 for a general overhauling of the battle ship *Ohio*, a ship that cost $6,000,000. Is that too much? Is there a machine shop in the land anywhere upon which there has not been expended during the last four or five years at least 10 per cent of the cost of the machine shop? Any man who knows anything about manufacturing, and the gentleman from Minnesota [Mr. TAWNEY] himself knows something about machinery, I understand——

Mr. TAWNEY. Will the gentleman permit?

Mr. FOSS (continuing). Knows that in every manufacturing plant and machine shop there is expended anywhere from 5 to 10 per cent every year upon machines, upon repairs, upon overhauling, and upon reconstruction, as the gentleman is pleased to call it.

Mr. TAWNEY. Will the gentleman permit me to interrupt him there?

Mr. FOSS. Does the gentleman mean to say that these repairs are not necessary? Will he put his opinion against the naval experts in our navy?

Mr. TAWNEY. I will put my opinion against such a naval expert as made an estimate a year ago for the repairs of the *Alabama;* yes. I want to say further, in reply to the gentleman——

The CHAIRMAN. Does the gentleman from Illinois [Mr. Foss] yield?

Mr. FOSS. I will yield for a question, that is all.

Mr. TAWNEY (continuing). That my objection was not to the ordinary repairs to these vessels; but here is an item for the repair of the *Ohio*, $545,000, which means more than ordinary repairs. It means a reconstruction of a vessel that has been in commission less than four years. It is the time that the vessel has been in commission and the amount that is appropriated now for reconstruction that I object to.

Mr. FOSS. Five hundred thousand dollars on a vessel that cost $6,000,000?

Mr. TAWNEY. How much has been spent on her every year, in addition to the $500,000?

Mr. FOSS. Very little.

Mr. TAWNEY. I would like to know.

Mr. FOSS. I have not got it; but this is a general overhauling of the ship, and every ship has to be generally overhauled every four or five years, and 10 per cent on the cost of the ship is a very small amount, in my judgment, for the overhauling of it.

The gentleman speaks about reconstruction as though we were building the ship all over, as though the constructors down here will build her all over from top to bottom. I do not wish any such notion as that to enter the minds of gentlemen here. There is no reconstruction of the hull. There is no reconstruction of the great material part of the vessel. There are changes in the ammunition hoists, changes in the magazines, new boilers required, perhaps, and the internal fittings—those things which are made necessary because of the constant use of the ship, or made necessary by reason of new improvements. And, as has been stated, the science of naval architecture and naval construction has advanced perhaps more than any other science during the last ten or twenty years.

Now, I have not anything more to say about the subject of repairs. We have got to take the opinions of our naval experts, and not the opinions of gentlemen upon this floor, unless they have shown themselves specially qualified as naval experts to inform and enlighten the House.

On the subject of engineers, I desire to state that I had something to do with the passage of the bill consolidating the Engineer Corps and the Line of the navy. I do not stand here to-day to confess my sins, as does the gentleman from Pennsylvania [Mr. BUTLER].

Mr. BUTLER. Unless a mistake can be construed as a sin, I did not make any confession of sin, because I did not violate any moral, physical, or temporal law. I say I was misled by men like the gentleman from Illinois [Mr. Foss], who ought to have known better. [Laughter.]

Mr. FOSS. I simply say that by way of pleasantry.

Mr. BUTLER. All right; I will so accept it.

Mr. FOSS. Simply by way of pleasantry to the gentleman. There is a difference of opinion on this question. I stand here and say to-day I believe that the consolidation between the Engineer and Line Corps was a good thing for the American Navy. I stand here to say that I believe the engines are well cared for and watched over by our naval officers to-day, and that our ships are performing their duties as well as they ever did before. I am not here to put my opinion against the opinion of any other gentleman on the floor of this House; but I want to say to you that it is the opinion of officers of the navy that this consolidation was a good thing.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOSS. Just one moment.

The CHAIRMAN. The gentleman asks unanimous consent to proceed for one moment. The Chair hears no objection.

Mr. FOSS. What is the best evidence upon this subject, the best witness to call? We had Admiral Evans before our committee the other day, a man who has been in command of the Atlantic Fleet, that took it from Hampton Roads to Magdalena Bay; and the question came up there as to whether the consolidation which Congress authorized ten years ago was a good thing or not. My distinguished colleague upon the committee [Judge BUTLER] said to Admiral Evans:

I feel a mistake was made in the consolidation.

Admiral EVANS. You think the consolidation was not good?

Mr. BUTLER. I do; although I assisted in bringing it about.

Admiral EVANS. I think it is the best thing that could have been done. When I got to California, without any engineers, my fleet was in better condition than when it started.

And it is the opinion of our naval officers, in command of our fleet and ships, that this consolidation has been a splendid thing for the navy, because it makes the man in command of the ship the master of the ship, a man who understands all the workings of the ship. Before, the command of the ship was in the hands of the engineer. We had to make a change in the curriculum of the Naval Academy, whereby the officer or midshipman there must acquire a knowledge of engineering, and by further adding to that the experience which he must obtain in the engine room as a watch officer. By reason of these facts, the entire ship is to-day under command of an engineer officer, a man who understands all the duties of engineering, and who is complete master of the ship.

Now, Mr. Chairman, I have not anything further to say; but I will call witnesses from the American Navy, the men who have sailed the ships and commanded them, upon this question as to whether or not this consolidation was not a good thing for the American Navy. Why, sir, the magnificent performance of our fleet, sailing around the world as it is to-day, is the pride of every American and the envy of every naval power on the face of the globe. Let me say to you that there have been no repairs upon those ships. They have not entered into any navy-yard, and what repairs have been made have been made by the men on the ships themselves, which is abundant testimony to the fact that our navy to-day in all its different parts, in the engineer department, as well as in every other department, is an efficient navy and doing its work splendidly and well.

Now, Mr. Chairman, I call for the reading of the bill.

The Clerk read as follows:

NAVAL ACADEMY.

Pay of professors and others, Naval Academy: One professor as head of the department of physics, $3,600.

Mr. HULL of Iowa. Mr. Chairman, I move to strike out the last word, simply for the purpose of getting information. I would like to ask the chairman of the committee in regard to these professors. What proportion of them are from civil life?

Mr. FOSS. Well, all of these we have here are from civil life. This professor is at the head of the department of physics. He has been there for thirty-five or forty years. That is Professor Terry.

Mr. HULL of Iowa. In regard to the professors at the Naval Academy, is it the gentleman's opinion that it is as good administration to have professors from civil life teaching the cadets as it would be to have naval officers detailed, and receiving the title of professor, who are thoroughly familiar with the whole course of instruction to make a commander of our navy?

Mr. FOSS. There is a desire in the Navy Department to have naval officers down there, but the committee has been more or less in favor of retaining the civil professors there. Some of them have been there a great many years and have shown their proficiency, and we are in favor of their retention.

Mr. HULL of Iowa. With the number of cadets graduated, it seems to me that we will soon have a very large number of naval officers, and unless they can be utilized in this line of work they will be put on the supernumerary list. We are graduating double classes at the Naval Academy each year, and will at least until 1911. Now, I will say to the gentleman that at the Military Academy the army prefers, and have always kept in all cases except the master of swords, the professors from the army, and hereafter when the master of the swords retires that officer is to be selected from officers of the army. The teachers of French and Spanish they prefer from civil life. It is not an education in the line of the ordinary academy. It is for a specialized department of work, and it seems to me, both as a matter of economy and as a matter of better instruction, the naval officer graduated by thorough training as he reaches further along would be better qualified for this work than these professors from civil life.

Mr. LOUDENSLAGER. For French and Spanish and mathematics?

Mr. HULL of Iowa. Mathematics altogether in the military classes. The teachers are graduates. I withdraw the motion.

The Clerk read as follows:

One sword master, at $1,500; 1 assistant, at $1,200, and 2 assistants, at $1,000 each; 1 instructor in gymnastics, at $1,200; 1 assistant librarian, at $1,800; 1 cataloguer, at $1,100; 2 shelf assistants, at $900 each; one secretary of the Naval Academy, at $1,800; 5 clerks, at $1,200 each; 4 clerks, at $1,000 each; 2 writers, at $720 each; 1 clerk at $1,440; 1 dentist, at $1,600; 1 baker, at $600; 1 mechanic in department of physics, at $730; 1 mechanic in the department of ordnance, at $951.52; 1 mechanic in the department of ordnance, at $751.20; 1 messenger to the superintendent, at $600; 1 armorer, at $649.50; 1 chief gunner's mate, at $529.50; 3 quarter gunners, at $469.68 cents each; 1 coxswain, at $469.50; 3 seamen in the department of seamanship, at $397.50 each; 25 attendants at recitation rooms, library, store, chapel, armory, gymnasium, and offices, at $300 each; 1 bandmaster, at $1,200; 21 first-class musicians, at $420 each; 7 second-class musicians, at $360 each; services of organist at chapel, $300; 1 assistant instructor in gymnastics, $1,000; 4 clerks, $900 each; 1 assistant baker, $540; 1 mechanic in department of physics, $720; 4 cooks, at $600 each; 2 instructors in physical training, at $1,500 each; 2 electrical machinists in department of physics, $1,000 each; 1 chief cook, $1,200; 1 steward, $1,200; 1 assistant steward, $600; 1 head waiter, $720; 2 assistant head waiters, at $480 each, $960; 2 pantry men, at $420 each, $840; 1 assistant baker, $420; 8 assistant cooks, at $300 each, $2,400; necessary waiters, at $16 per month each, $13,440; in all, $154,702.76.

Mr. MACON. Mr. Chairman, I reserve a point of order on the new matter in this paragraph, for the purpose of asking an explanation from the Chairman. On page 45, line 3, I notice that you appropriate for 5 clerks, at $1,200 each, whereas in the last bill only 2 were appropriated for.

Mr. FOSS. They were in different parts of the bill and we have put them together.

Mr. MACON. Is it not a fact that you have done this so as to increase their salaries?

Mr. FOSS. No; I do not think their salaries are increased.

Mr. MACON. I do not think you can find 5 clerks anywhere in the bill of last year.

Mr. FOSS. Perhaps there has been a little increase. Yes; the hearing so states there has been an increase in the Navy Department clerks of about 10 per cent.

Mr. PADGETT. Under executive order.

Mr. FOSS. And there is an increase of 2 clerks.

Mr. MACON. Has the committee authority to increase this force on an appropriation bill?

Mr. FOSS. The 2 were paid from another appropriation—from the contingent fund.

Mr. PADGETT. I will read the note on page 75 of the bill. There you will see, under Note C:

The increase of 5 is caused by a transfer of 3 from another item, which is correspondingly reduced, and by an actual increase of 2 in the total number. The 2 additional are needed in the gymnasium and the sick quarters.

I will also read from the hearings:

The CHAIRMAN. On page 142 I notice that you are asking for 5 clerks, at $1,200 each, instead of 2; 4 clerks, at $1,000, instead of 1; 2 writers, at $720 each, instead of 1. Please explain those changes.

Captain BADGER. I would like to have Professor Dodge answer that question.

The CHAIRMAN. All right

Professor DODGE. The current appropriation provides for a secretary and 9 clerks, at an expenditure of $11,660. They are all paid on annual salary. In addition to that, there is now employed, and has been for several years, at the academy 7 clerks paid on a per diem basis from lump appropriations. There is a prohibition in the general deficiency act of last year against the further employment of any people in the classified service on a per diem basis to be paid from lump appropriations after this year unless they are expressly allowed by Congress. We have taken those 7 clerks and put them on a salary, with a total increase of $585.36. There is an apparent increase in this appropriation of $6,620 because those clerks were paid from other appropriations. They are now brought to this one appropriation and put on an annual-salary basis.

Mr. FOSS. Then I was mistaken about that.

Mr. MACON. You do increase the force.

Mr. PADGETT. There is an increase of 2, because the sick quarters and the new gymnasium require them.

Mr. MACON. Under existing law, has the committee the authority to increase the force on an appropriation bill?

Mr. PADGETT. Not strictly.

Mr. MACON. It was stated here yesterday that the Appropriations Committee was not authorized to do that anywhere except in the departments here in Washington, and I want to know if that is a fact.

Mr. FOSS. We have always added to the number of clerks on the appropriation bill, and the Naval Academy being a separate institution, we have kept that separate and apart from the other.

Mr. MACON. I notice, on page 46, line 5, that you approprite for 4 clerks, at a salary of $900 each, when in the last bill you only appropriated for 1—an increase of 3. Why was that increase necessary?

Mr. PADGETT. It says the increase of 1 is necessary for instruction in the electrical machinery and ship appliances. Is that the one you refer to?

Mr. MACON. I refer to line 5, page 46, where you appropriate for 4 clerks, at $900.

Mr. PADGETT. There have been transfers. They have been consolidated. If you will look in the last bill, you will see that there are others appropriated for, and we have consolidated them here.

Mr. MACON. I do not find any at that price.

Mr. LIVINGSTON. The President increased the salaries.

Mr. MACON. Now, I notice, further, in line 8, on the same page, 4 cooks, at $600 each. A year ago you appropriated for 1 cook, at $600.

Mr. PADGETT. No; we appropriated for a number of cooks last year, scattered throughout the bill.

Mr. MACON. The bill says 1.

Mr. PADGETT. I know, but if you will read in other parts of the bill——

Mr. MACON. At different salaries. There are some at $300, but here are 4 at $600. Last year you only appropriated for 1 at $600.

Mr. PADGETT. If the gentleman will look at note E, he will see that there is no increase in the total number. Two items, 1 cook at $600 and 2 cooks at $600, are combined. One cook at $325 is omitted and 1 cook at $600 is added, so that there is an increase of $274.50. The number of cooks is not increased, but there is an increase of 1 cook's salary from $325 to $600.

Mr. MACON. Referring again to page 45, line 22, I notice that you appropriate for 25 attendants at recitation rooms, store, chapel, armory, gymnasium, and offices, whereas you only appropriated for 20 for that purpose a year ago. What necessity is there for that increase?

Mr. ROBERTS. There is an actual increase of only 2.

Mr. MACON. The bill shows 5.

Mr. ROBERTS. The apparent increase of 5 is caused by a transfer of 3 from another item, which is correspondingly reduced, and by an actual increase of 2 in the total number. The 2 additional are needed in the new gymnasium and the sick quarters.

Mr. MACON. A moment ago the chairman of the committee stated that the salary of the clerks and other employees at the Naval Academy had been increased 10 per cent by executive order.

Mr. FOSS. Yes; by executive order.

Mr. MACON. Has the President the right to increase salaries under existing law?

Mr. FOSS. He has a right to increase the pay of per diem employees.

Mr. MACON. These seem to be annual employees.

Mr. FOSS. They were formerly per diem, but are made annual here. I think my statement was right, that there has been no increase in the number of clerks. I think my colleague on the committee referred to some other matter.

Mr. MACON. Mr. Chairman, these increases are all small in amount. It seems that the total increase of appropriations is about $8,794.50. It impresses me very clearly that the salaries have been increased in this paragraph, which is contrary to existing law. But I am not disposed, where the number of increases are small and the increase of salary is small, to interfere with the desire or judgment of the committee, and in this instance I will withdraw the point of order.

The CHAIRMAN. The gentleman from Arkansas withdraws his point of order.

The Clerk read as follows:

Pay of enlisted men, active list: Pay of noncommissioned officers, musicians, and privates, as prescribed by law; and the number of enlisted men shall be exclusive of those undergoing imprisonment with sentence of dishonorable discharge from the service at expiration of such confinement, and for the expenses of clerks of the United States Marine Corps traveling under orders, and including additional compensation for enlisted men of the Marine Corps regularly detailed as gun pointers, mess sergeants, cooks, messmen, signalmen, or holding good-conduct medals, pins, or bars, including interests on deposits by enlisted men, and the authorized travel allowance of discharged enlisted men and for prizes for excellence in gunnery exercise and target practice, both afloat and ashore, $2,872,270: *Provided*, That hereafter officers and enlisted men of the Marine Corps shall serve as heretofore on board all battle ships and armored cruisers, and also upon such other vessels of the navy as the President may direct, in detachments of not less than 8 per cent of the strength of the enlisted men of the navy on said vessels.

Mr. KEIFER. Mr. Chairman, I rise for the purpose of making a point of order against the proviso just read.

The CHAIRMAN. Does the gentleman make or reserve the point of order?

Mr. KEIFER. Mr. Chairman, I will not occupy much time——

Mr. FOSS. I concede the point of order, Mr. Chairman.

Mr. KEIFER. One moment. I want to say, Mr. Chairman, in support of my point of order that this is a class of legislation that we have never had before, and I think there was only one instance when it was attempted, and that was in the Forty-sixth Congress, when the majority undertook to regulate by law the powers of the Commander in Chief of the Army and Navy of the United States by statute, and then the attempt was abandoned and a provision in the law resorted to that no part of the money was to be expended unless it was used as specified.

The CHAIRMAN. The Chair sustains the point of order, and the Clerk will read.

The Clerk read as follows:

In all, pay, Marine Corps, $4,349,910.28.

Mr. SLAYDEN. Mr. Chairman, I move to strike out the last word. It has happened that I have been occupied elsewhere for a large part of the time since the consideration of this bill began, and I am not as familiar with it as I would like to be, nor have I been able to keep up with the discussion of it. I do not know whether there has been any discussion of the recent order of the President with reference to the employment of the Marine Corps. I do understand, however, the recommendation of the committee with reference to that corps, and in that decision of the committee I heartily concur as wise and patriotic. Since I have had the honor of serving in this House I have seen the Marine Corps grow from a comparatively insignificant body of men commanded by a colonel, to an important force commanded by a major-general. I have not indorsed that growth of the corps. I have opposed it consistently, year in and year out, because I did not believe it was necessary, because I did not think it was fair to the taxpayers of the country, nor could I be brought to believe that it was necessary for the defense of the integrity and honor of the country.

If I had been convinced that it was necessary for the protection of the country, I would have voted for every increase that has been suggested, and would have supported it indefinitely, in order to secure the integrity and protect the honor of the country. But now that we have the corps, I believe that they should be employed where the Constitution and the laws require that the marines should be used. I believe that it is entirely proper to have them continuously associated with the navy. The corps, as I understand it, was organized in 1775.

The marines have done their duty fully and ably as patriotic and brave men. My information is that they have been thanked by Congress on nineteen different occasions for distinguished and gallant service, and I believe that if we are to have the corps at all we ought to have them doing the duty for which they were created. They have been in a way spurned by the navy, and they are not wanted by the army.

Kipling exactly describes the status of the marine:

'E isn't one of the regular line, nor 'e isn't one of the crew,
'E's a kind of a giddy harumfrodite, a soldier and sailor, too!

They seem, according to the view of some people, whom it is not necessary to mention, a military misfit, but be it said to the honor of this corps that they have unfailingly done their duty, and I rejoice at the wisdom of the committee which puts them where they belong. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

Total Marine Corps, exclusive of public works, $7,048,310.28.

Mr. TAWNEY. Mr. Chairman, I desire to ask the chairman of the committee, in view of the recent order of the President in respect to the service of the Marine Corps, whether the appropriations carried in this bill will be available for the purposes for which they are made, with that service on land instead of on board ships?

Mr. FOSS. The order was not made until after these estimates were made up and sent to the committee.

Mr. TAWNEY. But the order has been made before the appropriations?

Mr. FOSS. Yes. We have provided in here for the Marine Corps just as we did last year and the year before.

Mr. TAWNEY. The provisions in this bill are for the Marine Corps used in the navy as heretofore?

Mr. FOSS. Yes.

Mr. TAWNEY. If the Marine Corps does not serve as heretofore, as it will not if the order of the President is effective, are these appropriations available for the purposes for which they are made?

Mr. FOSS. Oh, yes; they will be available. There is no question about that.

Mr. TAWNEY. Does the committee think that it is advisable to change the character of the service of the Marine Corps?

Mr. FOSS. The committee has almost unanimously reported the other way.

Mr. LOUDENSLAGER. Unanimously reported the other way.

Mr. TAWNEY. Well, Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Insert at the end of line 3, page 59, the following:
"*Provided*, That no part of the appropriations herein made for the Marine Corps shall be expended for the purposes for which said appropriations are made unless officers and enlisted men shall serve as heretofore on board all battle ships and armored cruisers, and also upon such other vessels of the navy as the President may direct, in detachments of not less than 8 per cent of the strength of the enlisted men of the navy on said vessels."

Mr. FITZGERALD. Mr. Chairman, I reserve the point of order on that.

Mr. TAWNEY. Mr. Chairman, my purpose in offering this amendment is to continue the service of the Marine Corps as that service has heretofore been employed, and as the Committee on Naval Affairs has unanimously reported it should be. I, personally, do not favor making the Marine Corps an adjunct of the army, as I believe it will become if not continued as a part of the naval force as heretofore. I understand the Military Committee of this House is likewise opposed to the Marine Corps becoming a part of the army. Now, this is a limitation on the appropriations carried in this bill for the Marine Corps and, in my judgment, in order as a limitation. I do not use the word "hereafter." It applies only to these particular appropriations.

Mr. FITZGERALD. Mr. Chairman, the great objection that I have to it is that it changes the discretion that is lodged at present in the Executive, and it requires the service of marines on ships where they have not been serving up to this time. It never has been the practice to have marines on all of the ships of the class indicated. I call the attention of the committee to the report of Admiral Converse, then Chief of the Bureau of Navigation, for the year 1906, in which he says:

Many of our ships do not carry marines and it has been a matter of deep consideration to the bureau as to whether it would not add to the efficiency of the naval service if the marines were withdrawn from more or all of our vessels.

It may be advisable to carry some marines on some vessels, and inadvisable to carry marines on some other vessels. I do not know who originated this percentage, 8 per cent, but it got so near to being 16 to 1 that I am suspicious about the origin of this peculiar percentage that is required regarding marines and sailors.

Mr. OLCOTT. Will the gentleman yield for a moment?

Mr. FITZGERALD. Yes.

Mr. OLCOTT. That percentage was arrived at because that is practically what is done now.

Mr. FITZGERALD. It might be, but not for the average of ships on which there are marines and on which there are no marines. I believe it unwise, however much it is advisable to have marines on some ships, to have a fixed rule requiring a certain fixed percentage of marines to other men on the vessels. I doubt if this be wise legislation.

Mr. TAWNEY. I ask that the amendment be again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection.

The amendment was again reported.

Mr. TAWNEY. If there is no objection, the word "all" might be stricken out. Mr. Chairman, I ask unanimous consent that the word "all" be stricken out.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out the word "all," so as to read "on battle ships."

Mr. FITZGERALD. I do not think that changes the effect of the amendment at all. I think it will be necessary to construe——

Mr. TAWNEY. It is only a question of a mandatory command. This leaves discretionary the percentage.

Mr. FITZGERALD. How would that be construed? At present there are no marines on ships.

Several MEMBERS. Oh, yes; there are.

Mr. FITZGERALD. I thought they had all been withdrawn.

Mr. KEIFER. Mr. Chairman, I desire to be heard on this point of order. I was out at the time the motion was made to amend, and I understand the point of order has been made and reserved

Mr. TAWNEY. It has been reserved.

Mr. KEIFER. I understand this is an attempt to exercise the power of the legislative branch of the United States to control the Commander in Chief of the Army and the Navy. It is that old attempt of Congress to set up by its legislation a mode of directing the President of the United States in his control of the navy. He is the Commander in Chief of the Army and Navy, made so by express provision of the Constitution of the United States. The amendment would be new legislation. Of course it ought to be treated as unconstitutional legislation. Section 2, Article II, reads:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several States, when called into actual service of the United States.

Perhaps that does not affect the question of order now pending. The provision that it is proposed to have again reinserted would require the President to use the Marine Corps of the navy in a certain way. He would be required to have of marines at least 8 per cent of the number of sailors or enlisted men, I believe it is, upon a ship.

Mr. TAWNEY. Of enlisted men of the Marine Corps.

Mr. KEIFER. Enlisted men of the navy on each ship. That is a direction as to what the Commander in Chief could do with the Marine Corps. Some gentlemen suggest that it is a limitation. It may be a limitation, in his judgment, if it required 99 per cent of the Marine Corps to serve on board ships, so that at last it would simply be a mode of substituting a legislative act of Congress for the powers of the Commander in Chief of the Navy. If we could make such a limitation, if that is the proper way to characterize it, with reference to the navy in this respect, we could make it in all respects. If we can do that with reference to the navy, we can direct by legislation how the army should be moved, where it should be kept on land, in what part of our possessions it should be kept, and how maneuvered and managed in time of peace and in time of war. It is wholly new legislation, in the sense that it is an attempt to legislate, though indirectly, by withholding an appropriation, the powers of the Commander in Chief of the Navy. In about the year 1878 the Forty-sixth Congress undertook to provide by law that the Army of the United States should not be used for the purpose of putting down riots or to keep peace and order on one day of each year, and that election day; and the attempt was then made in the same manner that is here attempted—to provide that on the day in the year when an election was being held there should be no money expended through the War Department toward maintaining it—and it grew to be so absurd by the time it was fully discussed that it was abandoned. That was the time when both branches of Congress were Democratic. I have not heard of that proposition since until it came up in this form here as applicable to a navy appropriation.

The point of order, to my mind, Mr. Chairman, should be sustained. There are about 40,000 enlisted men, as I understand it, in the navy, and about 10,000 marines. It is not wise always to intermingle them on the same ships and necessarily at times in the performance of the same duties, and there are many difficulties growing out of the combination of marines and enlisted men in the navy, and of the officers of the two corps of the navy, which I do not care to take the time to specify now.

Mr. FOSS. Mr. Chairman, I call for a decision on the point of order.

Mr. WALDO. Mr. Chairman——

Mr. TAWNEY. Mr. Chairman——

The CHAIRMAN. The gentleman from New York [Mr. WALDO] is recognized to discuss the point of order.

Mr. WALDO. Mr. Chairman, it seems to me the point of order is not well taken. The Marine Corps has always been a part of the navy; it has always been used in the navy, and has been a part of the floating or sea force of the United States. It is now proposed to change it to a part of the permanent land force of the army. That is the proposition. This limitation that has been offered in the amendment is to provide that the appropriation we are now making, and one that has been made for years for the navy, shall not be diverted to the land force or the army. That is what the limitation is, and nothing else. It is purely a limitation that this appropriation which we make for the navy shall not be diverted to the land force, and it is clearly in order.

Mr. TAWNEY. Mr. Chairman, this proposition was prepared and offered by myself, at the suggestion of the members of the Committee on Naval Affairs sitting about me, with the view of accomplishing two things—first, the consideration of the merits of this proposition, and, second, so far as I am concerned, with a view, if possible, of continuing the service of the Marine Corps as that service has been used for over a hundred years in our Government.

Mr. BUTLER. One hundred and thirty-three years, without interruption.

Mr. TAWNEY. Now, Mr. Chairman, so far as the point of order is concerned, I wish to say, before addressing myself to that, that I want to amend the amendment by striking out all the language after the words "as the President shall direct," so as not to provide for specific direction, but leaving in the

words as heretofore. I would like to have the Clerk report the amendment as it will read with that amendment.

The CHAIRMAN. The gentleman from Minnesota [Mr. TAWNEY] asks unanimous consent to modify his amendment. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the amendment.

The Clerk read as follows:

Provided, That no part of the appropriations herein made for the Marine Corps shall be expended for the purposes for which said appropriations are made unless officers and enlisted men of the Marine Corps shall serve as heretofore, on board battle ships and revenue cruisers and also upon such other vessels of the navy as the President may direct.

Mr. TAWNEY. Now, Mr. Chairman, it occurs to me that that is clearly a limitation upon the appropriations that are made for this purpose, and, being a limitation, the point of order does not lie against it. I shall not attempt to discuss the matter further. I think the Chair is more familiar with the rule than I am.

The CHAIRMAN. The Chair will be glad to obtain any enlightenment on the subject. Otherwise, the Chair is prepared to rule.

The Constitution of the United States provides, in section 2 of Article II that—

The President shall be the Commander in Chief of the Army and Navy of the United States.

How far Congress itself, through any form of legislation, may interfere with the control of an army or navy created and take away from the President of the United States the power to command it, is not necessary for the Chair now to pass upon. But the rules of the House provide that there shall be no legislation upon appropriation bills. Also the rulings are to the effect that a limitation upon an appropriation bill is in order, and the question for the Chair to determine is whether the motion of the gentleman from Minnesota is, in fact, a limitation upon the appropriation or legislation upon the appropriation bill.

Mr. FITZGERALD. Mr. Chairman, before the Chair proceeds further, so far as I am concerned, I withdraw the point of order to this particular phase of the question.

Mr. KEIFER. Mr. Chairman, it will be renewed.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] withdraws the point of order, and the gentleman from Ohio [Mr. KEIFER] renews it.

It seems to the Chair that while the House, under its rules, has authority to prescribe a limitation upon an appropriation, when Congress attempts by limitation to give positive direction to the Executive, it raises a question which has at times been determined in the House. A few years ago there was a question in regard to the form of spelling under an executive order, and upon an appropriation bill this amendment was offered:

No money appropriated in this act shall be used in connection with the printing of documents authorized by law or ordered by Congress, or either branch thereof, unless the same shall conform to the orthography recognized and used by generally accepted dictionaries of the English language.

To that amendment a point of order was made and sustained. Another amendment somewhat similar in character was offered, and the point of order sustained.

The present occupant of the chair at one time made a ruling to this effect. Under the rule, a limitation is in order. Under the rules, if the amendment in the form of a limitation on the appropriation does not limit the expenditures, but is an affirmative change of law, it is not in order. The Chair thinks this is not a limitation on the expenditure of money, but a change of law. The Chair therefore sustains the point of order, and the Chair is inclined to think that the present amendment positively directs where the marines shall be used, and whether constitutional or not, that is obnoxious to the rules of the House, and is not a mere limitation. The Chair sustains the point of order.

Mr. TAWNEY. Do I understand the Chair to hold that this is a change of existing law?

The CHAIRMAN. The Chair thinks so.

Mr. TAWNEY. Does the Chair refer, then, to the provision in the Constitution?

The CHAIRMAN. The Chair thinks it would be a constitutional question, probably.

Mr. TAWNEY. Because the Constitution clothes the President with the power exclusively of controlling the army and navy in time of peace?

The CHAIRMAN. The Chair does not undertake to say how far Congress may legislate creating an army or as to its disposition under the Constitution, because that question is not before the House.

Mr. FOSS. On that point, I desire to read from the Constitution of the United States, which gives Congress the power to make rules and regulations for the government of the land and naval forces.

Mr. BUTLER. But this says expressly where he may assign the troops.

The CHAIRMAN. The Chair understands that, and that that is legislation, which is not a subject to be indulged in through the form of an appropriation bill.

Mr. WALDO. I desire to offer another amendment, following line 3. Insert:

Provided, That no part of this appropriation shall be used for a marine corps no longer used as part of the naval force as heretofore.

Mr. KEIFER. I make the point of order.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 59, after line 3, insert:

"*Provided*, That no part of this appropriation shall be used for a marine corps no longer used as part of the naval force as heretofore."

Mr. FOSS. I reserve the point of order.

Mr. KEIFER. I make the point of order. There is no limitation on the appropriation at all about it. It is a proposed amendment which does not prevent the expenditure of the money, but only provides for it being expended in a particular way, and for that particular way it is proposed to legislate, and that is legislation.

Mr. WALDO. It only limits the use of the money to the present purpose for which it has been used for the last hundred years or more.

The CHAIRMAN. The amendment offered by the gentleman from New York is not similar to the amendment offered by the gentleman from Minnesota. The amendment offered by the gentleman from Minnesota contained positive directions, which were not a limitation upon the appropriation, but contained practically a change of existing law. The amendment of the gentleman from New York provides:

That no part of the appropriation shall be used for a marine corps no longer used as part of the naval force as heretofore.

It is quite within the power of Congress to make or refuse to make appropriations except upon some condition of this sort. The Chair therefore——

Mr. KEIFER. Mr. Chairman, the point I make is that it is no limitation upon the appropriations made in the bill, which will be expended in any event; therefore it is not a limitation upon the appropriation. The money will be expended, but not for this prohibited purpose, and therefore it does not come within any rule of limiting which abridges the amount of the appropriation.

The CHAIRMAN. The Chair does not catch the point of the gentleman from Ohio.

Mr. KEIFER. The point I make is that a certain sum of money is appropriated in this bill for the maintenance of a marine corps. Now, this proposed amendment is, in effect, to require that money to be expended for certain purposes, but not as provided in this provision; and that is not a limitation upon the appropriation at all, because that money is to be expended, but not for a particular prohibited purpose; and that is legislation. The amendment does not reduce the amount of the appropriation, or prohibit any part of it from being expended. It is not a limitation upon the amount of the appropriation at all. I think the distinction is that if an appropriation is not to be used at all unless used in a particular way, it would be a limitation on the appropriation; but if it is to be used otherwise than that stated in the proviso, then it is not a limitation upon the appropriation at all, and subject to a point of order because new legislation.

The CHAIRMAN. The amendment of the gentleman from New York is:

Provided, That no part of this appropriation shall be used for a marine corps no longer a part of the naval force as heretofore.

The appropriation for the Marine Corps has not yet been made. It is only in process of being made, and in making an appropriation it is quite within the power of the House to provide a limitation as to its expenditure. The Chair thinks that this is a limitation, just as much as the provision would be that no appropriation shall be used for a marine corps over a certain size. The Chair overrules the point of order.

Mr. BUTLER. Mr. Chairman, may we have the amendment reported again?

The CHAIRMAN. If there be no objection, the Clerk will again report the amendment.

The amendment was again read.

Mr. COCKRAN. Mr. Chairman, I wonder if the gentleman from New York quite understands the significance of that proposal as it strikes some of us here? It seems to leave the President of the United States discretionary power to disband the Marine Corps altogether. I should like to know if the gentle-

man from New York intended that to be the effect of his proposal?

Mr. WALDO. It does not change his power from what it is at present. It does not give him any more power.

Mr. COCKRAN. Does the gentleman from New York contend that under existing law, after we have made provision for the Marine Corps and appropriated money for it, the President could disband it of his own motion?

Mr. WALDO. I understand that is the contention in the Brownsville case.

Mr. COCKRAN. Does the gentleman admit that is settled law?

Mr. WALDO. I do not say that is law, but that is the contention.

Mr. COCKRAN. By this proposal you would empower the President to do that very thing.

Mr. WALDO. Not at all.

Mr. COCKRAN. It seems to me that under this provision the appropriation is made conditional upon the marines being employed as part of the actual naval establishment.

Mr. WALDO. Certainly.

Mr. COCKRAN. If the President failed to employ them as such, then under this provision there would be no appropriation available and therefore no Marine Corps.

Mr. WALDO. They are a part of the army, then. Let the army support them.

Mr. COCKRAN. I do not think there is any statutory provision now that makes them a part of the army. I merely wanted to get at the significance of this proposal. If it be a proposal to give the President discretionary power to abolish the entire Marine Corps, then we can vote upon it with that understanding; but if it be a provision to compel him to maintain the Marine Corps under its former organization, as part of the naval equipment, that is another thing. Whatever may be the intention of the gentleman who offers the proposition, I think it important that the question be placed before the committee so that we can vote on it without any doubt as to what will be accomplished if it be adopted.

Mr. WALDO. When the President uses the Marine Corps as a land force, he dispenses with it as a marine force. Now, if we do not have any Marine Corps, we will not pay for it; that is all.

Mr. SLAYDEN. Will my friend from New York permit a question?

Mr. WALDO. Certainly.

Mr. SLAYDEN. I think my usually well-informed and always highly esteemed friend is mistaken in his idea of what was the position of the President with reference to the troops at Brownsville. He did not dismiss an organization. He dismissed units in that organization whom he thought guilty of a crime, and he happened to believe, and properly to believe, I think, that they were all either guilty or had guilty knowledge of it.

Mr. BENNET of New York. I should like to ask the gentleman from Texas [Mr. SLAYDEN] if the President, in dismissing those units, did not succeed pretty effectively in dismissing an entire battalion?

Mr. SLAYDEN. The general prevalence of crime in those companies required that it be done.

Mr. WALDO. There was no pretense that there was any crime committed by any of that force except a small portion of it, and no proof of that.

Mr. SLAYDEN. I beg to say that I think there was abundant proof.

Mr. WALDO. I have not seen any lawyer who has examined that record who says so.

Mr. GARDNER of Massachusetts. Mr. Chairman, if the gentleman from New York [Mr. WALDO] will give me his attention for a minute, I should like to ask him a question.

Mr. WALDO. Certainly.

Mr. GARDNER of Massachusetts. There is a large part of the Marine Corps on land at present and serving on land. Now, is this part or is it not a portion of the Navy of the United States? When I say "at present" I mean six months ago.

Mr. WALDO. My understanding is that the President's intention is to do away with the Marine Corps altogether as a marine corps and to make them a land force. Now, I am opposed to that, and I am opposed to appropriating for the navy and then having that navy made a land force. That is all that this limitation goes to. If we want a marine corps, let us have a marine corps. If we want a larger land force, let us increase the army.

Mr. GARDNER of Massachusetts. Mr. Chairman, this amendment means nothing whatever. The Marine Corps has been serving ashore, a great part of it, and is yet a part of the navy of the United States, and this appropriation will be applicable to it. Also observe the word "heretofore." Heretofore means what is happening at the present day, just as well as what happened a year ago. If that amendment is adopted there is not one single change in the existing state of affairs.

Mr. COCKRAN. Mr. Chairman, I desire to express my concurrence in what has just been stated by the gentleman from Massachusetts [Mr. GARDNER].

Holding the amendment in my hand, and with its text before me, it is perfectly clear that if it be adopted the House will do nothing except to declare that the law stand as it is. [Laughter.]

Mr. TAWNEY. And shall not be changed by the President of the United States. [Laughter.]

Mr. COCKRAN. Precisely. It states that no part of the appropriation shall be used for the Marine Corps "not a part of the naval force as heretofore." That is to say, as the Marine Corps was before the adoption of this amendment; that is to say, as the Marine Corps is now, for the amendment is not yet adopted. In effect, we are invited to enact solemnly that "things are as they are, and the law is as it is written." [Laughter and applause.]

Mr. FOSS. Mr. Chairman, I call for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. WALDO].

The question was taken, and on a division (demanded by Mr. WALDO) there were 41 ayes and 41 noes.

The CHAIRMAN. On this question the ayes are 41 and the noes are 41, and the amendment is lost.

Several MEMBERS. "One more in the affirmative." "One more in the negative."

The CHAIRMAN. Gentlemen can not vote after the vote has been announced.

Mr. BENNET of New York. Tellers!

Mr. BUTLER. Mr. Chairman, may I make the humble request to know whether or not the amendment is adopted?

The CHAIRMAN. The amendment was disagreed to.

Mr. TAWNEY. Mr. Chairman, I ask unanimous consent to return to page 39 for the purpose of offering an amendment.

Mr. WALDO. Mr. Chairman, tellers were demanded.

The CHAIRMAN. The Chair thinks that the demand for tellers was too late. The gentleman from Minnesota asks unanimous consent to return to page 39 for the purpose of offering an amendment which the Clerk will report for the information of the committee.

The Clerk read as follows:

After the word "vessels," line 24, page 39, insert: "*Provided further*, That hereafter it shall be the duty of the Secretary of the Navy to report to Congress at the beginning of each regular session thereof a detailed statement showing the amount expended of the appropriations for repair of every ship where said repairs exceed on any one ship the sum of $200,000 in any one fiscal year."

The CHAIRMAN. Is there objection?

Mr. FOSS. I do not object.

The CHAIRMAN. No objection is heard. The question is on agreeing to the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was agreed to.

Mr. FOSS. Mr. Chairman, we have now reached that portion of the bill known as the "increase of the navy," and we have passed over a few matters to which I desire to go back and take up. Therefore, I will ask that we return to page 13, Bureau of Ordnance and ordnance stores. To that paragraph there is now pending an amendment offered by the gentleman from Indiana [Mr. Cox], to which I made a point of order.

The CHAIRMAN. The Chair will state that on yesterday several items and amendments were passed without prejudice, and the gentleman in charge of the bill asks to recur to these items, and the Clerk will report the first item, the amendment offered by the gentleman from Indiana, on page 13.

The Clerk read as follows:

Amend by adding the following paragraph, after the word "Navy," line 6, page 14:

"*Provided*, That no part of this appropriation shall be expended for the purchase of powder made, manufactured, or sold in violation of an act of Congress passed July 2, 1890, being an act entitled 'An act to protect trade and commerce against unlawful restraints of trade and monopolies,' and all amendments made thereto, which powder shall be purchased in accordance and with the conditions submitted by the Secretary of the Navy to all manufacturers, dealers, and sellers of powder, and upon bids received in accordance with the terms and requirements of such proposals as to carry into effect the limitations of this provision. All powder shall conform to the standard prescribed by the Secretary of the Navy: *Provided*, That the Secretary of the Navy shall receive no bid for the purchase of powder unless the bid is accompanied by an affidavit showing that the powder sought to be sold is not made, manufactured, or offered to be sold in violation of any law passed by Congress."

Mr. FOSS. And to that I make a point of order, and the point of order is that it is new legislation under the guise of a limitation.

The CHAIRMAN. Does the gentleman make or reserve the point of order?

Mr. FOSS. I make it.

The CHAIRMAN. Does the gentleman from Indiana desire to be heard on the point of order?

Mr. COX of Indiana. I would like to be heard briefly. I call the Chair's attention to section 4003, in Hinds's Procedure, volume 4:

A provision that no part of any appropriation for an article should be paid to any trust was held in order as a limitation. On March 1, 1906, the army appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when the Clerk read a paragraph making appropriation for the purchase of powder.

Mr. OSCAR W. GILLESPIE, of Texas, offered an amendment:

"After the word 'dollars,' in line 22, page 43, insert: 'Provided, That no part of said $629,000 shall be paid to any trust or combination in restraint of trade nor to any corporation having a monopoly of the manufacture and supply of gunpowder in the United States, except in the event of an emergency.'"

The Chair held in that case that that was a limitation and was not new legislation upon an appropriation bill. I am unable to see very much material difference, if any, between the amendment I offer and the limitation that was offered by the gentleman from Texas, which I have just read. The limitation offered by the gentleman from Texas provides that no part of the appropriation shall be paid to any trust or person who is doing business in restraint of trade or is engaged in a monopoly of the trade. The amendment which I propose undertakes to prohibit the use of any money sought to be appropriated in the appropriation bill or paid to any person in violation of an act of Congress passed on the 2d day of July, 1890. I do not believe that the amendment which I offer is new legislation, but I believe that it comes within the purview of the ruling of the Chair heretofore—that it is but a mere limitation directing where and how the money sought to be appropriated shall be expended.

The CHAIRMAN. The Chair is prepared to rule. The amendment offered by the gentleman from Indiana is both in substance and in law positive legislation, and the Chair sustains the point of order.

Mr. COX of Indiana. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 14, after line 6, amend by adding as a new paragraph:

"*Provided*, That no part of this appropriation shall be paid to any trust or combination in restraint of trade, nor to any corporation having a monopoly of the manufacture and supply of gunpowder in the United States, except in the event of an emergency.

Mr. FOSS. Mr. Chairman, I make the same point of order—that it is new legislation.

The CHAIRMAN. The Chair overrules the point of order.

Mr. FOSS. Mr. Chairman, I call for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

Mr. COX of Indiana. Mr. Chairman, I desire to be heard on the amendment.

The CHAIRMAN. The gentleman is recognized.

Mr. COX of Indiana. Mr. Chairman, it strikes me that this is an amendment which ought to obtain. I do not know that I desire to supplement what I said on yesterday evening by anything to-day; but it is evident, to my mind at least, that it has been and is conclusively established that the Government of the United States is paying too much for its powder. Why, I am not going to say; but the proof, to my mind, is conclusive, and, coming from the source which it does—the Naval Proving Board—this fact ought to be accepted by Congress. It is established, I believe, that the Government of the United States can manufacture its powder a great deal more cheaply than for what it is paying for its powder now to private manufacturers. Something must be wrong. To my mind, the evidence is conclusive that powder can be manufactured in the United States at not to exceed 51.7 cents per pound. If we can manufacture powder at this price—by the Government—it seems to me that private manufacturers likewise should do it, because our experience and observation teach us that the Government of the United States ordinarily does not get things done any cheaper than private manufacturers or private employers of labor, and in most of the government manufactories of different kinds the eight-hour law obtains. In addition to this, in most of the government manufactories of different kinds the employees get a larger number of days of absence each year than do employees working for private manufacturers, and in private establishments men work longer hours than they do while working for the Government and do not have so many holidays as are given to the employees of the Government. When the Government can make powder at a cost of not to exceed 51.7 cents a pound, it strikes me that when we are paying from 65 to 70 cents per pound for our powder there is something radically wrong. As figured out by the reports or estimates made by the Naval Proving Board, when we pay 67 cents a pound for powder that is equivalent to paying a dividend of 40 per cent on the stock owned by the private concerns upon an investment. That is entirely too much profit. If we are paying too much for our powder, we certainly ought to be willing to set some kind of a precedent to bring the Government within reach of buying its powder at something near its cost.

To anyone who has given this question one moment's thought and study, the entire United States is now being held up by a great hydra-headed monster, known in ordinary parlance as a "powder trust." Shall we submit to its dictation, pay its exorbitant prices, and bow to its supreme dictates, or in the interest of our people, operating under the law of self-defense, shall we not seek to curb and control in some way by placing a limitation upon money appropriated in this bill, and say that no part of it shall be used in the purchase of powder made and manufactured by any powder trust? I hope the amendment will obtain.

Mr. GILLESPIE. Mr. Chairman, I desire to speak in favor of the adoption of this amendment. To my mind it is just a proposition as to whether the Government shall deal with a criminal concern as if he were an honest man. Buying this powder from this criminal trust is justified every time on the plea of necessity, and I grant that, if such a necessity could be shown, it would be a justification, because the law of necessity supersedes every other; but in the absence of such a compelling necessity, it is absolutely wrong, from a moral standpoint, to continue the Government in such a criminal copartnership. The course pursued by the Congress of the United States in dealing with this criminal conspiracy is very strange, when we think that we are at the same time spending millions of dollars every year—$4,000,000 was the estimate in this $29,000,000 Standard Oil fine case—trying to suppress these monster criminals.

We are pursuing in the courts of justice this very powder trust, and here we are giving it financial power to fight the Government. It is like arming a robber we are trying to subdue, because the profits of this trust are included in this 67 cents a pound for their powder. There is no necessity that justifies the Congress of the United States in dealing thus with this criminal conspiracy, not even from the standpoint of economy. Why, it is shown since we began appropriating for this Government Powder Factory we have reduced the price of powder from $1 a pound until now we have it down to 67 cents. Why not appropriate enough money to manufacture the Government's own powder, especially in time of peace, and even for war, if necessary? Look at the millions we are spending each year for powder. The evidence shows that for $250,000 we can enlarge our factory and double the output. Let us free the Government from the grasp of this giant criminal in the control of the powder supply for the army and navy. Let us do this rather than bow down to this criminal conspiracy, which, like every tyrant, pleads necessity for its defense. [Applause.]

Mr. GAINES of Tennessee. Mr. Chairman, I want to read in the hearings of the committee a couple of paragraphs from an official statement signed by "Joseph Strauss, Lieutenant-Commander, United States Navy, Inspector of Ordnance in Charge." This is an official letter on this powder subject, sent me last session of Congress, and it is in the morning RECORD, page 1196, at the bottom. Here is what he says:

1. I have to submit the following of the probable cost of smokeless powder at private works.

Now, I read paragraph 7:

On the basis of 1,000,000 pounds of powder manufactured per annum, it will be seen that the price of 70 cents per pound yields a profit of $264,000, and this considers every possible charge except the pay of the officers connected with the financial administration of the enterprise.

8. Judging from the cost of the Indianhead plant the total investment will amount to about $650,000. On this basis the stockholders should receive a dividend of over 40 per cent on the capital invested if the powder is sold at 70 cents. If it were sold at 55 cents per pound this would yield 17.5 per cent profit on the capital invested, and in case the orders were cut down during any year to one-half, the profits should still be satisfactory.

Now, that is official, from the man who has charge of this powder question, and is part of a letter which was sent me by Secretary Metcalf last session, and it is in the RECORD now on your desks. Mr. Chairman, just a moment and let us get at the profit. He says here the Indianhead plant total investment was $650,000. Now, that makes a million pounds of powder and he says at the price of 70 cents the profit is $264,000. Six hundred and fifty thousand dollars invested and the profit is $264,000 in a year's work!

Mr. EDWARDS of Georgia. Net profit?

Mr. GAINES of Tennessee. Now, gentlemen, think of that! On that basis the stockholders should receive a dividend of 40 per cent, he says. Now, gentlemen the Government, as Secre-

tary Long said in his report here, when the Spanish-American war began (to extricate itself from the combination and control of powder), built a powder plant. Now, that plant makes a million pounds a year. If a "private" concern made no more than that on its $650,000 investment, that would make 40 per cent, or $264,000 a year, making 1,000,000 pounds per year.

Now, to try and check this "powder trust" the Government has gone a step further. It has authorized the creation of this powder board—that was read from by several here yesterday, and from which I have just read—to further control this octopus. To further control it the Government created that board, and yet we have only been able, with all these influences, to get the price reduced to 67 cents per pound, while we are making it at a cost of 43 cents at our government factory. A step further. The Government of the United States, through President Roosevelt, and through its great Department of Justice, Attorney-General Bonaparte, and possibly his predecessor, Mr. Moody, have gone further, Mr. Chairman, and have filed a great injunction bill in the district of Delaware in the federal court making this octopus and its allies all over the United States defendants, and they are now taking testimony in that great case. Here in my hand is a copy of that bill containing many pages, charging every violation of the Sherman antitrust law that it is possible for the English language to charge.

Here is this concern defying the antitrust laws of this country, holding up the Government in time of war, as it did during the Spanish-American war, when it charged us a dollar a pound for powder; and here our powder board in the navy, in effect, concede we are unable to control that octopus; and here is our factory; and, as the gentleman from Indiana, a great Democrat from that great State [applause] says, we, like patriots, ought to stand by the side of our President, by the side of the Department of Justice, stand by the laws we have sworn to uphold, stand by the flag, and "don't give up the ship," and say by your votes to-day that no octopus shall furnish powder to the American Government and deal with us in any such manner as I have just described and as the Government charges in its bill. We can do it——

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. GAINES of Tennessee. One minute more. It is our duty, Mr. Chairman; it is our solemn duty to see our antitrust law fully executed, and this amendment helps to do it. [Applause.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Indiana [Mr. Cox].

Mr. FOSS. Mr. Chairman, I desire to make a statement here. Of course, this particular powder company is the only company that furnishes powder in the United States. We consume a little over 3,000,000 pounds every year, and two-thirds of it we buy and one-third of it we manufacture down here at Indianhead. The price that we pay for this powder is 67 cents, and that price is fixed by the Joint Army and Navy Board, based upon the cost of production of powder by the Government at Indianhead.

Mr. COX of Indiana. Will the gentleman yield for a question?

Mr. FOSS. Yes.

Mr. COX of Indiana. Is this powder purchased by the Government under competitive bids?

Mr. FOSS. No; I do not understand that it is. There is only one concern that furnishes it.

Mr. AMES. Will the gentleman pardon an interruption?

Mr. FOSS. Yes.

Mr. AMES. I would like to call attention to the fact that the Government can get its alcohol, which is used to make this powder, free, while the manufacturer must pay the duty, and that makes a difference of 6 or 7 cents.

Mr. FOSS. The difference in alcohol is a little over 3 cents a pound. Now, I have furnished a statement made by the Joint Army and Navy Board as to the cost of the manufacture of powder, and it is in the RECORD. The actual cost at the naval powder factory per pound for the year 1907 for powder was 45 cents. That was simply for labor and material, and gentlemen upon the other side here stand up and assert that we are getting our powder for 45 cents down at Indianhead. They do not take into consideration the other things which enter into the cost of a pound of powder which are enumerated here.

Mr. HITCHCOCK. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Illinois yield?

Mr. FOSS. Not just now.

Mr. HITCHCOCK. I would like to correct the statement of the gentleman. He says the figures given include nothing but labor.

Mr. FOSS. Labor and material.

Mr. COX of Indiana. The figures as given in the official reports include depreciation of 10 per cent a year on machinery and 5 per cent a year on plant—a very material difference.

Mr. FOSS. The gentleman is right. It includes a depreciation of the plant, one-seventh of the fire loss for the seven years the plant has been in operation, exclusive of alcohol and such administrative expenses as the salaries of officers on duty at the plant and the salaries of higher officials and their clerical force.

Mr. HITCHCOCK. So that in ten years the machinery will be completely paid for, and this plant has been in operation seven years and cost originally less than $700,000?

Mr. GAINES of Tennessee. Six hundred and fifty thousand dollars.

Mr. FOSS. I beg to differ with the gentleman on that point. Now, in addition to this 45 cents, the alcohol is figured at nearly 4 cents—3.85 cents. Administrative cost is figured at nearly 3 cents, and then the interest on the capital invested, which is figured here at a million and a half, at 6 per cent, adds 9 cents more, and the actual rejections amount to 2½ cents more, making a total cost of 63.48 cents. Even that 63.48 cents as computed does not include the following items, for which no satisfactory estimates can be obtained:

1. Freight charges. The companies are required to deliver f. o. b. any point in the United States.
2. Experimental work.
3. Allowance for extra hazardous risk and pensions to old or disabled employees.
4. Risk of expensive plants becoming obsolete by changes in composition of powder or in methods of manufacture. (When the change to smokeless powder was made in 1899, a large amount of machinery suitable only for manufacturing brown powder, and which had recently been installed at considerable expense, was rendered useless.)
5. Of the four private plants, one, that at Santa Cruz, Cal., is lying idle, and the other three are working at one-third or less of their full capacity. Since the overhead charges are virtually the same when working at full capacity, the output of a plant working at a reduced capacity is very much more expensive under those conditions. The Du Ponts are keeping the plant at Santa Cruz in condition for manufacturing powder at the request of the Government.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. Foss] has expired.

Mr. FOSS. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Illinois [Mr. Foss] asks for five minutes more. Is there objection?

There was no objection.

Mr. GAINES of Tennessee. What private plant is that in California?

Mr. FOSS. One of the Du Pont plants. I will read:

6. No estimate of profit in addition to the 6 per cent on the capital invested has been made.

Now, the Chief of the Bureau of Ordnance has been before our committee and has stated repeatedly that he considers this a low price. The Du Pont Company have been furnishing powder to our Government at 67 cents, but have done it with a great deal of reluctance. Mr. Chairman, I have not anything further to say. In my judgment, if you adopt this provision, we will not have any powder for the navy for the coming year. We will go on and manufacture down here at Indianhead one-third of the powder we need, but two-thirds of that which we need we will not get.

We have made this appropriation here in this bill upon the estimate submitted by the Chief of the Bureau of Ordnance. We have not cut down his estimate one single dollar. The Chief of the Bureau of Ordnance is not asking for an increased appropriation for the extension of this plant. I think it is a wise thing for us to have in this country a private concern that is manufacturing powder, because when war comes, and it is necessary, the Government will not be able to manufacture all its powder. Inasmuch as we are fixing the price ourselves, and doing it upon a fair and reasonable basis, it seems to me that this committee ought to stand by the recommendation of the Naval Committee in this bill.

Mr. BARTLETT of Georgia. Will the gentleman permit me to ask him a question?

Mr. FOSS. Certainly.

Mr. BARTLETT of Georgia. The gentleman says that if we pass this amendment we will not get two-thirds of the powder we need. This amendment provides that we shall not buy powder manufactured by a trust, and this trust, if it sells the powder, will sell it in violation of law. Then the gentleman must take that as a virtual admission on his part—getting his information, I apprehend, correctly from the powder plant we buy from—that they are a trust and are violating the law.

Mr. FOSS. Of course that point has to be established by the court.

Mr. BARTLETT of Georgia. But the gentleman stated as a fact why we should oppose this amendment, that if it passed we would not get two-thirds of the powder we would need.

Mr. FOSS. I think it is a very unwise amendment, and I hope it will be voted down.

Mr. BARTLETT of Georgia. The gentleman has not answered my question. The gentleman, then, concedes that the powder people, from whom we are purchasing two-thirds of our powder, and from whom, without this amendment, we would continue to purchase two-thirds of our powder—we will not be able to buy it from these people, because they are a trust and violating the laws of the land.

Mr. FOSS. "The gentleman" concedes nothing.

Mr. COX of Indiana. Will the gentleman yield to me for a question, for the purpose of eliciting information?

Mr. FOSS. Yes.

Mr. COX of Indiana. You make the statement now that the Government of the United States fixes the price of this powder. That is correct, I understand?

Mr. FOSS. The joint army and navy board fix the price.

Mr. COX of Indiana. Now, as I understand from information obtained during the progress of this debate, we are purchasing all our powder from one concern?

Mr. FOSS. The only one that makes it.

Mr. COX of Indiana. Now, I will ask the gentleman whether or not it is a case where the Government fixes a price for the powder—that the Government simply fixes a certain definite figure—and says to the seller, "We will give you so much," and the seller accepts it?

Mr. LOUDENSLAGER. That is the way they do.

Mr. FOSS. That is all. This board fixes the price, based upon the figures obtained from the manufacturer of the powder, and says to the Du Pont Company, "You must furnish it at that price."

Mr. COX of Indiana. Then, as I understand, the Government simply puts this proposition up to the manufacturer, and it is up to the manufacturer either to accept it on the terms and conditions fixed in the contract by the Government or turn it down?

Mr. FOSS. That is it.

Mr. HITCHCOCK. Will the gentleman answer a question?

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. HITCHCOCK. I ask unanimous consent that the time of the gentleman may be extended for five minutes.

The CHAIRMAN. The gentleman from Nebraska asks unanimous consent that the time of the gentleman from Illinois be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. HITCHCOCK. In view of the deplorable condition which the gentleman says exists—that if Congress shall fix the price of powder at a reasonable figure above what it costs the manufacturer, the Navy of the United States may be deprived of all supply of the trust-controlled article; that the powder trust will, as he says, refuse to sell at such a price—will he not accept an amendment to this bill providing for an enlargement of the powder plant at a cost of $250,000, when such expenditure will double the capacity of the present plant and enable the Government of the United States to make at 45 cents per pound powder for which it is now paying the powder trust 67 cents a pound?

Mr. FOSS. I want to say to the gentleman that I do not admit all these premises.

Mr. HITCHCOCK. Which one does the gentleman deny? I would like to ask the gentleman, is there any doubt of the existence of a powder trust? Or what other premise is questioned?

Mr. FOSS. That an expenditure of $250,000 would increase the capacity to the extent the gentleman states.

Mr. HITCHCOCK. There is in the RECORD to-day a letter from the Bureau of Ordnance, by authority of the Secretary of the Navy, stating that an appropriation of $250,000 will double the capacity of the Indianhead plant. That appears to be an official statement.

Mr. ROBERTS. That only gives us two-thirds of what we want. We are still one-third shy, even if they double their capacity down there.

Mr. HITCHCOCK. If that is the premise that the gentleman from Illinois denies, he evidently stands on uncertain ground. He can not deny that there is in existence a powder trust, which the Government is now prosecuting; a powder trust which has made an international agreement with other powder companies in other countries, under which they have promised not to erect powder factories in the United States. I hold in my hand a synopsis of that agreement. What premise is it, then, that the gentleman denies?

Mr. FOSS. As I heard the gentleman's question it was considerably involved. There were a number of propositions which he made, and I would have to ask the official reporter to repeat it.

Mr. HITCHCOCK. I will simplify the question, if the gentleman from Illinois will permit. Will he accept an amendment to this naval appropriation bill allowing $250,000 for the enlargement of the Indianhead powder plant?

Mr. FOSS. No; I should be opposed to that, in view of the fact that the department has not recommended it, have not submitted it in their estimates, and do not, as I understand, care to enlarge their plant at the present time.

Mr. HITCHCOCK. But the department has stated the fact that by the expenditure of $250,000 we can manufacture a million pounds more of powder a year at a saving of over $250,000 a year. Now, it seems to me that a committee bringing in a bill in these times, when the Treasury is threatened with a constantly increasing deficit, even if the department does not propose such a recommendation, ought itself to propose to enlarge this plant; not only for measures of economy but also for the additional reason, which the gentleman himself has stated, that the Government is practically in the hands of the powder trust as to price.

Mr. FOSS. I do not concede that the Government is in the hands of the powder trust at all. Admiral Mason says it is in the Government's hands.

Mr. HITCHCOCK. Suppose the powder trust refuses to sell at the price fixed by the board? Where else shall the Government buy? The tariff prevents buying abroad.

Mr. FOSS. Then we will enlarge the plant; but as long as we get powder at a reasonably fair price as fixed by this board, I do not see any necessity for it, and it is a good thing for the Government to keep a private manufacturer making powder, because in time of war it may be necessary for us to call upon some outside concern to do it.

Mr. HITCHCOCK. Will it not be too late to enlarge the plant, after the Government has been for a whole year without two-thirds of the powder it may need?

Mr. FOSS. Yes; it would be too late.

Mr. HITCHCOCK. It then is in the power of this trust practically to starve the Government at the present time, and the Government has no weapon of defense, and the gentleman declines to give a weapon to the Government by agreeing to an appropriation of only $250,000.

Mr. FOSS. I do not believe it will accomplish the purpose, Mr. Chairman. I call for a vote.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. GAINES of Tennessee. I move to strike out the last word. I want to ask the gentleman a question or two. The gentleman says, If the Du Ponts do not furnish us powder, where are we to get it? Here, gentlemen, is a list of independents named in this injunction bill by the Department of Justice and filed in the Delaware courts, stating that this Du Pont concern is trying to squelch them and grind them into dust.

Mr. EDWARDS of Kentucky. Into powder.

Mr. BEDE. And not smokeless powder, either. [Laughter.]

Mr. GAINES of Tennessee. And any one of them would be glad to get a contract to furnish powder. They are at least entitled to a chance—an open chance. They have none, as things showed.

Mr. FOSS. Any one of them can have a contract if they will furnish the navy powder, but they do not.

Mr. GAINES of Tennessee. They came here last year and brought such an amount of moral coercion to bear that the President and the Department of Justice proceeded upon their statement and other facts and filed this injunction bill. The gentleman knows—he has admitted it ever since he has been in Congress—that the Du Ponts have gotten these contracts. They have gotten them for nearly a century. They have grown so rich that they have belted the world with their monopolistic contracts, and the Department of Justice has just succeeded in dragging the fact out of the mouths of their witnesses. Only a few days ago the Government obtained evidence of one of their agreements, which I put into the RECORD last night for your reading. It is now on your desks. The Government has dragged it out of the mouths of their witnesses that there is an international combination to control every bit of powder that the world makes, except 25 or 30 so-called "independent concerns" in this country which are begging the Department of Justice to bridle this lion. Yet the chairman of this committee stands here defending that trust, when he has time and again voted to enforce the law that has not been enforced against them until this recent suit. [Applause on the Democratic side.]

I say, gentlemen, and I say it seriously and dispassionately [laughter]—oh, I am in dead earnest and cool as a cucumber [laughter]—we are particeps criminis by the careless manner in which we have so far proceeded, and I beg you to face about. Can we stand here with a big stick which we could put into the bill, that will not only control them but give these little powder manufacturers a square deal, a fair chance to live without being outraged, coerced, and thrown into bankruptcy, as the bill which was prepared by the Department of Justice says? We owe it to ourselves to uphold the law. We are bound to uphold the President in his effort to break up this trust, for he must see the law "faithfully executed," and at the same time aid him to enforce the Sherman antitrust law, which you are sworn to enforce, and which you will not do unless you pass this amendment.

This is where I stand, and that is my record for twelve years. I was among the first ones to call for a powder factory. I want to read you a word from the speech of the gentleman from Illinois, the chairman of the committee [Mr. Foss], on yesterday. He said:

It is manifestly to the interest of the Government to have maintained as large a powder-manufacturing capacity as possible as a reserve in the event of war, in which case we will undoubtedly need all the powder that we can get. The bureau therefore desires not to increase the present output of the factory at Indianhead, although it recommends that its capacity be increased.

"Capacity be increased." Now, that is in the gentleman's own speech yesterday, that the "capacity" of the Indianhead factory "be increased." I have thus quoted from his own speech, which he gave yesterday and which is in the RECORD to-day.

Mr. FOSS. I think the gentleman from Tennessee is mistaken.

Mr. GAINES of Tennessee. I will read it to you again. I am reading from page 1193 of the RECORD, at the foot of the page.

Mr. FOSS. I read from the paper which I hold in my hand:

The bureau therefore desires not to increase the present output of the factory at Indianhead—

Mr. GAINES of Tennessee. Well, read on.

Mr. FOSS (continuing)—

although it recommends that its capacity be increased.

Mr. GAINES of Tennessee. That is what you stated, and you are against it now. [Laughter and applause.] That is in the gentleman's own speech in to-day's RECORD. The gentleman should stand here for the Department of Justice, and with the President and with the law and order and the Sherman antitrust law.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next paragraph.

Mr. HITCHCOCK. Mr. Chairman, I have an amendment that I would like to offer on page 13.

The CHAIRMAN. We have passed page 13.

Mr. HITCHCOCK. I trust the Chair will not shut me out.

The CHAIRMAN. The gentleman from Nebraska offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 13, line 10, after the word "and," insert "maintenance and enlargement of."

The CHAIRMAN. That can only be done by unanimous consent.

Mr. FOSS. I object, Mr. Chairman.

Mr. HITCHCOCK. If the gentleman will reserve his objection. This amendment is offered, and I intend to follow it with additional amendments further down on the page, so as to enable the department to expend $250,000 in the enlargement of the Government Indianhead powder plant.

The CHAIRMAN. The Chair will call the attention of the gentleman from Nebraska to the recollection of the Chair; that the paragraph ending with line 6, page 14, was read and no amendment was offered to it.

Mr. FITZGERALD. Oh, yes, Mr. Chairman; there was an amendment pending.

The CHAIRMAN. If the gentleman from New York will permit the Chair to continue—and thereupon the gentleman from Indiana offered an amendment, which was a separate paragraph. It was not an amendment to the paragraph; he did not offer it as an amendment to the paragraph, but to come in as a separate paragraph at the end of line 6, page 14.

Mr. HITCHCOCK. I was on my feet and demanding recognition, but the Chair gave preference to the gentleman from Indiana.

The CHAIRMAN. If the gentleman from Nebraska had stated to the Chair that he desired to offer an amendment to the paragraph, the gentleman would have been entitled to recognition.

Mr. HITCHCOCK. The whole paragraph on page 13 went over until to-day. Inasmuch as I subsided at that time because the Chair had recognized another Member, I ought not to be precluded from presenting the amendment, particularly when the whole paragraph went over until to-day for consideration.

The CHAIRMAN. The Chair hardly thinks the gentleman from Nebraska can find fault with the Chair if the gentleman himself did not endeavor to preserve his rights.

Mr. HITCHCOCK. I did make repeated efforts to get the attention of the Chair.

The CHAIRMAN. The gentleman from Nebraska and the gentleman from Indiana and other gentlemen rose, and the gentleman from Indiana offered an amendment as a separate paragraph at the end of line 6. The gentleman from Nebraska, had he made it known to the Chair, would have been entitled to offer an amendment to the paragraph.

Mr. HITCHCOCK. Mr. Chairman, I did not suppose it was necessary for me to raise a riot.

The CHAIRMAN. It was not necessary for the gentleman to raise a riot, but it was necessary for the gentleman to state the purpose for which he rose.

Mr. HITCHCOCK. I endeavored to state it, but the Chair recognized the gentleman from Indiana, and as we passed the paragraph temporarily, I supposed the whole matter went over until to-day.

Mr. SHERLEY. If the Chair will permit, allow me to make this suggestion. While the Chair is accurate in its statement of what occurred on yesterday, it was the plain understanding that all of these matters should be passed over until to-day, the chairman of the Committee on Naval Affairs then having personal knowledge of the fact that there were several gentlemen desiring to offer amendments, and it was not considered that having gone over informally any of us would be shut out by virtue of the gentleman from Indiana [Mr. Cox] offering instead of an amendment to the paragraph what he chose to call a new paragraph. While, perhaps, strict parliamentary law sustains the Chair, I submit to both the Chair and the gentleman from Illinois [Mr. Foss], in charge of the bill, that in good faith with the agreement had yesterday we ought to have to-day opportunity to present these various matters.

Mr. FITZGERALD. Mr. Chairman, not only that, but the amendment itself was an amendment to the pending paragraph. Although the gentleman stated that it was offered as a separate paragraph, in effect it was an amendment to the pending paragraph, because it provides that no part of the appropriation in the paragraph then read should be available in certain ways, and the language of the gentleman that the amendment should be by adding a separate paragraph does not change the character or effect of the amendment. It was a limitation upon the language in the paragraph that had just been completed.

The CHAIRMAN. If the point of order had been made that it was not in order as a separate paragraph, the Chair would have passed upon that.

Mr. GAINES of Tennessee. I desire to state to the Chair that the gentleman from Indiana stated yesterday, and the RECORD states, that he offered his proposition as an amendment. "I offer the following amendment," and he states to me privately, furthermore, that the proposition which he offered was a proviso to the pending proposition.

The CHAIRMAN. Of course the gentleman from Indiana [Mr. Cox] offered an amendment. No one disputes that.

Mr. GAINES of Tennessee. Not as a separate section.

Mr. HITCHCOCK. In view of the misunderstanding and the disposition of the Chair, then, I will ask unanimous consent, Mr. Chairman, to return.

The CHAIRMAN. The Chair will state that, of course, the Chair has no desire to take advantage of the gentleman from Nebraska [Mr. HITCHCOCK] or anyone else, and the Chair will take advantage of no one. The gentleman from Indiana [Mr. Cox] offered an amendment as a separate paragraph. It was so stated. The Chair was not endeavoring to determine whether it was an amendment that belonged to the paragraph that had just been read or not. A request was made to pass the amendment offered by the gentleman from Indiana. The strict construction might have been that that amendment being ruled out of order no other amendment was in order in that place. The Chair would not make such a construction as that, because the Chair thought, that having passed that amendment, it meant the committee meant to pass that subject.

Mr. HITCHCOCK. Do I understand the Chair to rule that it is necessary for me to ask for unanimous consent?

The CHAIRMAN. The Chair is endeavoring to ascertain the exact facts.

Mr. HARDY. Will the Chair permit me to make a suggestion?

Mr. FITZGERALD. At the top of the second column on page 1193 of the RECORD yesterday the Chair will find that the request is made that the various items be passed.

The CHAIRMAN. The Chair will be glad to have his attention called to where the RECORD speaks of various items.

Mr. FITZGERALD. On page 1193, in the remarks of the gentleman from Kentucky [Mr. SHERLEY], the Chair will find the following:

Mr. SHERLEY. Of course the gentleman realizes that it is impossible for us to follow a detailed statement out of which the gentleman has read only a portion. Now, I suggest, in order to handle this matter and not handicap the department or put a false price upon the powder, to let this letter, which the gentleman states is confidential, go into the RECORD, and allow these items to go over without prejudice until in the morning.

I will say that the gentleman from Kentucky [Mr. SHERLEY], the gentleman from Nebraska [Mr. HITCHCOCK], and myself had amendments to be offered to that paragraph putting a limitation upon the price of powder, and, in view of the record, it seems to me that all of those interested were justified in assuming that this paragraph, as well as the other paragraphs afterwards reached and mentioned, went over without prejudice.

The CHAIRMAN. Would the gentleman from New York [Mr. FITZGERALD] contend that if the amendment of the gentleman from Indiana [Mr. COX] had been agreed to yesterday as a separate paragraph, it would then be in order to offer an amendment to a preceding paragraph?

Mr. FITZGERALD. While the gentleman from Indiana stated in his amendment that it was a separate paragraph, it was, in effect, a part of the paragraph which had just been read. It was a proviso putting a limitation upon the use to be made of the money appropriated in that particular paragraph, and he can not by designating it is a separate paragraph shut out further amendments to the paragraph then under consideration.

The CHAIRMAN. The Chair will state that not only the amendment offered by the gentleman from Indiana on yesterday was offered as a new paragraph, but the amendment adopted by the House to-day offered by the gentleman was offered as a new paragraph in the gentleman's own handwriting. On yesterday there were several items which were passed without prejudice subsequent to the item referred to, and the Chair thinks that the Chair can only rule that the paragraph having been passed, it is not now subject to other amendments. The Chair will submit the request of the gentleman from Nebraska for unanimous consent to return to the paragraph. Is there objection?

Mr. HARDY. Mr. Chairman, before that——

The CHAIRMAN. The Chair hears no objection.

Mr. HARDY. Before that, I desire to make a parliamentary inquiry.

Mr. FOSS. Mr. Chairman, I would like to know what the request was.

The CHAIRMAN. For what purpose did the gentleman from Texas rise?

Mr. HARDY. Before the request for unanimous consent is made, I have just one suggestion to make.

The CHAIRMAN. It has already been agreed to.

Mr. HARDY. Then, I have no further suggestion.

Mr. FOSS. What was the request?

The CHAIRMAN. The request of the gentleman from Nebraska was to return to the paragraph ending on line 6, page 14, for amendment. The Chair put the request and no objection was made.

Mr. FOSS. Mr. Chairman, I did not hear the request, or I would have objected to it.

Mr. HITCHCOCK. Mr. Chairman, the amendment which I have sent to the Clerk's desk——

The CHAIRMAN. The gentleman will suspend until the Clerk can report the amendment.

The Clerk read as follows:

On page 13, line 10, after the word "and," insert "maintenance and enlargement of," so it will read "for maintenance of the proving grounds and maintenance and enlargement of powder factory."

Mr. HITCHCOCK. Mr. Chairman, this amendment, to be followed later by another amendment in the paragraph, will increase the item from $5,278,000 to $5,528,000, and will thus allow the necessary $250,000 for the enlargement of the Indianhead powder plant, in accordance with the estimate of the Bureau of Ordnance sent here under authority of the Secretary of the Navy. That estimate, as it appears in the RECORD to-day, shows that the appropriation of this quarter of a million dollars will double the capacity of the Indianhead plant, which, instead of giving us 1,200,000 pounds of powder a year at a cost of 45 cents a pound——

Mr. FOSS. Where is that stated, may I ask?

Mr. HITCHCOCK. It is in the RECORD this morning, included in the remarks of Mr. GAINES of Tennessee. Thus, for the expenditure of $250,000 for the enlargement of this government plant, we will be able to manufacture 2,400,000 pounds of powder a year at 45 cents per pound, in place of 1,200,000 pounds, at a saving of over 20 cents a pound. In other words, we will be able to manufacture double the quantity of powder we now manufacture, and in place of manufacturing one-third of the present needs of the navy we will be able to manufacture two-thirds of the needs. Now, it seems to me, Mr. Chairman, that the gentleman in charge of this bill ought to accept this amendment. He himself has stated that only one concern in the United States can manufacture smokeless powder for the United States; he himself has stated that it can and may refuse to accept the figures offered by the government board. In that case the United States will be unable to procure two-thirds of the supply it needs, and his statement is true.

First, because the Du Pont concern is the trust which monopolizes the whole American manufacture of powder; and secondly, because the tariff on powder prevents the United States from buying at a reasonable price from other countries. I may say, in passing, Mr. Chairman, that it is in the RECORD now that this Du Pont concern, which is in fact the trust, has in existence an agreement with the powder manufacturers in other parts of the world not to sell their powder in the United States and not to erect powder factories in the United States, the evident purpose being to starve the American market and compel the payment of trust prices for powder. It seems to me, therefore, Mr. Chairman, in view of the fact that our navy is constantly using an increased quantity of powder, in view of the statement made by the chairman himself that we have only one concern with which we can deal, and which can choke us off at any time, and in view of the further fact that we can manufacture powder 20 cents a pound cheaper than we can buy it, we certainly ought to appropriate the quarter of a million dollars to enlarge the plant, and the money will come back to us in the first year of operation. I hope the chairman will see fit to accept the amendment to his bill. [Applause.]

Mr. FOSS. Mr. Chairman, what I object to is when the Chief of the Bureau of Ordnance came before the committee he stated that he did not desire to have this plant enlarged the coming year. He made an estimate and we allowed it to him. Then afterwards, as I learn, of which I was not aware, a letter has been sent by the Chief of the Bureau of Ordnance to the gentleman from Tennessee [Mr. GAINES], stating that by the expenditure of $250,000 the capacity of the plant can be doubled, and rather indicating that the department would like to enlarge it. It does not seem to me that the Bureau of Ordnance treated the committee fairly upon this proposition, but so long as the House seems to be favorable to the proposition which has just been passed I shall make no objection to the amendment offered by the gentleman from Nebraska. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. HITCHCOCK].

The question was taken, and the amendment was agreed to.

Mr. HITCHCOCK. Mr. Chairman, I desire to offer an amendment to perfect the amendment which has just been agreed to.

The CHAIRMAN. The gentleman from Nebraska offers an amendment, which the Clerk will report.

The Clerk read as follows:

Line 21, page 13, strike out all after the word "million" down to the end of line 22, page 13, and insert instead "$528,171."

Mr. FOSS. May I ask the gentleman how much he adds?

Mr. HITCHCOCK. That is $250,000.

Mr. FOSS. I have no objection.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Nebraska [Mr. HITCHCOCK].

The question was taken, and the amendment was agreed to.

Mr. SHERLEY. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Kentucky [Mr. SHERLEY] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 14, line 4, after the word "proposals," insert:
"*Provided*, That no part of this appropriation shall be expended for powder, other than small-arms powder, at a price in excess of 64 cents a pound."

Mr. FOSS. Mr. Chairman, I make a point of order. I reserve it.

Mr. SHERLEY. I did not desire it to be reserved.

Mr. FOSS. What is the purpose of the gentleman's amendment?

Mr. SHERLEY. It is purely a limitation on the price which shall be paid for powder.

Mr. FOSS. Will the Clerk please read the amendment again?

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The amendment was again read.

The CHAIRMAN. The Chair will hear the gentleman from Kentucky [Mr. SHERLEY] on the point of order.

Mr. SHERLEY. The gentleman has not stated his point of order except to make it. I think the gentleman from Illinois [Mr. Foss] should suggest——

The CHAIRMAN. The Chair will ask the gentleman from Illinois to state his point of order.

Mr. FOSS. Mr. Chairman, it is new legislation.

Mr. FITZGERALD. Mr. Chairman, on page 373 of the Digest there is a ruling limiting the price of armor to a certain amount per ton.

The CHAIRMAN. The Chair is prepared to rule. The gentleman from New York [Mr. FITZGERALD] calls attention to a former ruling of the Chair in reference to the price of armor plate, where an amendment was offered providing—

> That no part of this sum shall be expended except in procuring armor of the best obtainable quality at an average cost not to exceed $545 per ton of 2,240 pounds, including royalty.

To that a point of order was made and overruled. Not only the precedent, but the usage, the Chair thinks, will cause the Chair to overrule the point of order.

Mr. SHERLEY. Now, Mr. Chairman, I have offered an amendment that limits the power of the Government to purchase powder at a price in excess of 64 cents. The present price paid is 67 cents. I shall not detain the committee by going over again the figures that have been recited here so frequently to-day, and that were published in the RECORD of yesterday, but I want to predicate my proposition upon this fact: It is the common knowledge of every man that the Government never does anything as cheaply as private individuals can do it. Now, by the Government's statement, putting in all of the items of supervision, pay of officers, interest upon a million and a half of investments, they figure the cost at something over 63 cents. And as an illustration that my premise is very true, I desire to state this in regard to alcohol: The Government found it cost them 6 cents per pound of powder for alcohol, but it cost the powder companies only a little over 3 cents. Why?

Mr. OLCOTT. No. It is:

> Alcohol (seven-tenths of a pound of alcohol per pound of powder), .0385 cents.

Mr. SHERLEY. If the gentleman will permit me, I think that the statement shows the additional cost is 3.8 cents a pound for the alcohol.

Mr. OLCOTT. Seven-tenths of a pound is what it is.

Mr. SHERLEY. The statement made here, Mr. Chairman, is that the private manufacturers were expending for alcohol only 3.85 cents per pound of powder. That is my statement, verified by a reference to the RECORD. Now, the Government has spent nearly twice that, because it has no means for recovering any of the ether and the alcohol used in the manufacture of the powder, and that is an illustration of how it always costs the Government more to make anything than it does a private industry.

Mr. HULL of Iowa. Will the gentleman yield for just one question? I assume it must cost the private consumer more for his first investment in alcohol than it costs the Government, because the Government gets it free of duty and the private manufacturer has to pay duty, and that adds to the price of alcohol.

Mr. SHERLEY. I understand that; but disregarding the question of duty, the statement is that it costs the Government 6 cents in place of 3.8 cents to the private manufacturer. I simply speak of this as an illustration of the fact that it always costs the Government more to do something than it does an individual.

Mr. OLCOTT. Now, Mr. Chairman——

Mr. SHERLEY. If the gentleman will permit, I would like to make a connected statement. Now, if the Government can manufacture powder, counting all the items that are necessary, at 63 cents and a fraction over, it is apparent that the private individual can manufacture it at 64 cents and have a fair profit; and it was for that reason I introduced this amendment.

I want to say that the statistics furnished by the Government, both those of the Army and Navy Department, are meager. I wanted a statement to be made by General Crozier that would go into the details. Instead of that, I find his statement is practically a copy of that of the naval officers, in which they stated conclusions without giving detailed figures by which we could verify the cost. But it does appear as a conclusive statement that a fair price would be a fraction over 63 cents. That being true, I fail to see why we should pay 67 cents. Now, a difference of 4 cents is quite an important matter, because the amount we buy is very large. The amount of powder annually procured for the army is approximately 670,000 pounds of cannon powder, of which the price is now 67 cents a pound, and 365,000 pounds of small-arms powder, the present price for which is 84½ cents a pound. The Navy Department at present has to procure from three to three and a half million pounds of cannon powder, of which a little over a million pounds are being manufactured by the Naval Powder Factory, leaving about two and one-half million pounds to be purchased. So that a difference of 4 cents in quantities which are so large makes a considerable item of expense to the Government.

I have no desire to embarrass the Government in this matter. I doubt very much whether the Government could get its supply of powder without purchasing from the Du Pont powder people; and while I deplore the existence of that trust as much as any man does, I should like to see the Department of Justice deal with that feature of the case rather than Congress. In this connection the Department of Justice would have very much more to its credit if it had instituted this proceeding just eight or ten years prior to the time that it did institute it. For more than seven years this House has heard annually charges made as to the existence of this combination, and now the proof comes out that an international agreement has been in existence for ten years; and yet the Department of Justice at the expiration of nearly ten years moves the wheels of justice. In very truth they, like the mills of the gods, grind slowly, whether they grind exceeding small or not. But I repeat that that is a matter that we ought not now to deal with here, but on the question of price Congress ought to so legislate as to prevent the Government paying 4 cents more than it needs to.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOSS. Mr. Chairman, I think it is very unwise to fix the price of powder here upon the expert opinion of the gentleman from Kentucky. I think it far better to leave it as it is and leave it to the joint army and navy board to fix the price, because they are experts on the subject. While the gentleman from Kentucky may be an expert on an infinite variety of other subjects, yet I am sure nobody will accuse him of being an expert on the price of powder.

Mr. OLLIE M. JAMES. He fixes it on the expert knowledge supplied by you from government sources.

Mr. FOSS. I am not standing here to defend the Powder trust or anything of the sort. I submit the views of the Navy Department. I desire very much that the navy should get enough powder this year for target practice and for the purposes for which it uses powder; but the chances are, with the other limitation that has already been inserted in the provision passed, the navy will not secure its powder this year, and I trust there will not be any more limitations placed upon the Secretary of the Navy.

Mr. SHERLEY. Before the gentleman takes his seat, just a suggestion or two. In the first place, the limitation already adopted has in it a loophole which the Navy Department would very quickly take advantage of whenever an emergency arises—and it can determine when the emergency arises—and then the limitation offered by the gentleman from Indiana ceases to be operative.

Now, I want to ask the gentleman what answer he has to give to this question: Is it not a fact, as shown by this board and demonstrated by the tests of the Government's own making of powder, counting all the items which reasonably ought to be counted, that the cost is only a little over 63 cents?

Mr. FOSS. I do not think it is.

Mr. SHERLEY. Well, then, if the gentleman does not think, I will read——

Mr. FOSS. It does not include all these other items, including freight.

Mr. SHERLEY. What are the items?

Mr. FOSS. I enumerated them, and the larger of the items was freight.

Mr. SHERLEY. Now, one thing that impressed me, with reference to these additional expenses, was that the army and the navy people were apparently endeavoring to justify a previous opinion not now warranted by the facts by suggesting various additional equities, the only one of which that has any real value being the freight item. Now, if you will take and subtract that one item of freight from among the others and against it put the one of overvaluation of the real investment,

which does not amount to a million and a half, and will figure out the difference of cost to the Government and the private manufacturer, due to the difference in the hours of labor and wages paid for the work, you will find more than enough to justify a reduction of 4 cents a pound in price.

Mr. FOSS. We have a valuation which has been sent in here by the Chief of the Bureau of Ordnance, which I will put in the RECORD, which the gentleman can see if he desires:

DEPARTMENT OF THE NAVY, BUREAU OF ORDNANCE,
Washington, D. C., January 21, 1909.

Memorandum for Mr. FOSS concerning the notes on estimates for basing price on smokeless powder which were supplied you yesterday, and which appear on page 1193 of the CONGRESSIONAL RECORD:

The capital necessary for a plant of similar capacity to that at Indianhead is given as $1,500,000. This amount is made up as follows:

Cost of land with improvements, including railway, steam, air, electric, and water mains, sewer lines, and standpipes; buildings and charges for machinery installation; machinery, including engines, pumps, presses, machine tools, and rolling stock used at the factory	$917,000
Stock on hand, including material for manufacture and finished product, based mainly on nitrating cotton, sodium nitrate, acids, alcohol, and powder in process of manufacture	541,000
Total	1,458,000

N. E. MASON,
Chief of Bureau of Ordnance.

Mr. SHERLEY. I will be very glad to see it, though we would like to see it a day ahead instead of a day after we vote on these matters.

Mr. FOSS. I do not think, when you take everything into consideration, that the Government can manufacture powder for 67 cents.

Mr. SHERLEY. To quote the gentleman himself, I prefer to accept the opinion of the experts of the department, rather than the expert opinion of the gentleman from Illinois. However much of an expert he may be on various other matters, I submit that he is not an expert on the subject of making powder.

Mr. FOSS. I am speaking generally of the Government, Mr. Chairman. I do not know of anything that the Government enters into the manufacture of that it produces much cheaper, in the long run, than a private concern. You may start in and show a reduction, but as the thing continues, as appropriations after appropriations are made, year after year, when you come to sum them all up you will find, in the end, that it has cost the Government as much to manufacture as it has the private concern.

Mr. SHERLEY. Costing more.

Mr. FOSS. And we already have an instance of it in the building of ships for the American Navy. It has been stated here on the floor time and again that the Government could build its ships cheaper than they could be constructed by private concerns. And what has been the result? Why, last year we put in the appropriation bill a provision that one of the colliers should be built in the Mare Island Navy-Yard, on the Pacific coast, and the estimate that was made for the building of that collier was $1,800,000; and yet bids have been submitted by the Secretary of the Navy showing that he can purchase by private contracts two colliers for that $1,800,000.

[The time of Mr. Foss having expired, by unanimous consent it was extended five minutes.]

Mr. FOSS. I say to you that upon the general proposition of government manufacture you will find, in the long run, that it costs more for the Government to manufacture than it does to buy of a private concern.

Mr. SHERLEY. Unquestionably, it costs more; and when it is shown that the Government can actually manufacture at 63 cents, we have a right to assume that the private manufacturer, by your own argument, can do it for much less. [Applause on the Democratic side.]

Mr. FOSS. But that does not take into consideration a number of things. Mr. Chairman, I call for a vote.

The question being taken on the amendment of Mr. SHERLEY, the Chairman announced that the noes appeared to have it.

Mr. SHERLEY. Division!

The committee divided; and there were—ayes 68, noes 62.

Mr. FOSS. Tellers!

Tellers were ordered, and the Chairman appointed Mr. Foss and Mr. SHERLEY.

The committee again divided; and the tellers reported—ayes 75, noes 69.

Accordingly the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next paragraph which was passed over.

The Clerk read as follows:

Purchase and manufacture of smokeless powder, $650,000.

Mr. SHERLEY. Mr. Chairman, I desire to offer the same amendment after the word "dollars," in line 8, page 14.

The CHAIRMAN. The gentleman from Kentucky offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 14, line 8, after the word "dollars," insert: *"Provided*, That no part of this appropriation shall be expended for powder other than small-arms powder at a price in excess of 64 cents a pound."

The question being taken, on a division (demanded by Mr. Foss) there were—ayes 67, noes 48.

Accordingly the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next paragraph in the bill which was passed over.

The Clerk read as follows:

Ammunition for ships. For procuring, producing, preserving, and handling ammunition for issue to ships, $3,000,000: *Provided*, That the Secretary of the Navy is hereby authorized to utilize all ammunition and other supplies already on hand under the appropriations "Increase of the navy; armor and armament," "Reserve ammunition," and "Reserve powder and shell," for general issue to ships in commission, as though purchased from this appropriation: *Provided*, That no part of this appropriation shall be expended for the purchase of shells or projectiles except for shells or projectiles purchased in accordance with the terms and conditions of proposals submitted by the Secretary of the Navy to all of the manufacturers of shells and projectiles and upon bids received in accordance with the terms and requirements of such proposals. All shells and projectiles shall conform to the standards prescribed by the Secretary of the Navy.

Mr. SHERLEY. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 16, line 3, after the word "proposal," insert:
"Provided, No part of this appropriation shall be expended for powder other than small-arms powder at a price in excess of 64 cents a pound."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Kentucky.

The question was taken, and the amendment was agreed to.

Mr. FOSS. Mr. Chairman, I think that covers all of the provisions except the one offered by the gentleman from Vermont [Mr. FOSTER].

Mr. LOUDENSLAGER. I would like to say to the Chair that I reserved a point of order upon that, which I will withdraw.

Mr. FITZGERALD. We will reserve it until we know what the amendment is. Let the amendment be reported.

Mr. FOSS. Upon second consideration, Mr. Chairman, I will ask that that go over until to-morrow.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Vermont [Mr. FOSTER] will be passed over until to-morrow. The Chair hears no objection.

Mr. DAWSON. Mr. Chairman, a private letter which I received a short time ago from a distinguished naval officer contained the significant sentence—"Congress has been so generous in giving us a new navy that we indulge the hope that it will go one step further and give us a new Navy Department."

In that sentence my friend expressed a widespread sentiment, not only among the fighting men of the navy, but a general sentiment among the people of the whole country.

The greatest need which confronts the navy to-day is a better system of naval administration. The system now in force may have been adequate in 1842, when it was created by law, but it is only natural that nearly seventy years of naval expansion and development should make the system outworn and obsolete.

Congress has been generous in providing for the new navy. During the past twenty-six years, which have been required to place this navy in being, there has been appropriated for ships alone the enormous sum of $344,000,000. The country has approved the building of this new navy, and there is a healthy public sentiment in favor of a rational building programme that will maintain the present high standard of efficiency. Congress may not have gone quite as fast as some would like, but we have maintained the United States in its relative position as the second naval power in the world.

This building policy has brought into being a fleet of fighting ships which has won the admiration of the world by its cruise around the globe. That voyage justified in full measure the pride which the American people feel in their navy, as well as demonstrated that the character and efficiency of the officers and enlisted men is equal, if not superior, to any other service in the world.

But what is the purpose of this navy? This magnificent navy was not created as a plaything, or to satisfy our vanity for military display. The people of the United States appreciate that our national defense depends in a large measure upon the navy, and if that defense in times of stress is to be effective that navy must be efficient.

While Congress has been liberal in making appropriations not only for new ships, but in improving the conditions of the officers of the navy, and in uplifting the conditions of the enlisted men to a point where it is now attracting recruits from a high class of young American manhood, it has omitted to provide a system of administration to conform to these new conditions.

The question of naval administration is vital to the highest efficiency of the navy. Of what use is it to spend millions in providing a modern weapon for our national safety and defense, if at the same time we do not also provide a system by which the weapon can be effectively used in time of need?

The present system of naval administration was created by law in 1842, when the war vessels of the world consisted of sailing ships. Since that time the sailing ship has given way to the steam frigate with its smooth-bore guns, and it in turn to the armor-clad, with its high-power rapid-fire guns.

Successive revolutions have occurred in those seventy years, not only in the ships themselves but in their armament, and to-day the modern battle ship is a floating fortress filled with intricate electrical and mechanical apparatus.

Equally as great changes have occurred in the conditions under which sea battles are fought. With all the vast changes in naval architecture and naval warfare, the United States to-day finds itself still trying to administer its navy under a system created nearly seventy years ago, the defects of which must be apparent to all.

A sound system of naval administration naturally embraces two general divisions—the personnel, comprising the officers and men; and the matériel, comprising the ships and their equipment. That is the natural division of the military and the civil. The military phase of the navy is fundamental and paramount. From the military standpoint, that administration should not only provide the nation with an effective fighting force, but should have the machinery to successfully use that force in time of need. It must look to keeping the navy in readiness as a weapon, and in devising plans of campaign in advance of hostilities. In short, it should be able to solve all the problems of war, and to suggest the means necessary to accomplish success. That is really the object for which the navy is created.

It seems almost past belief, and yet it is true, that there is no man or body of men provided by law, below the Secretary of the Navy himself, whose duty it is to decide the purely military questions of the naval service.

Under our system of government the Secretary of the Navy very properly is a civilian, and upon him rests the responsibility of the proper administration of the navy in time of peace, and its successful and effective employment in time of war.

It is not fair to impose this tremendous responsibility upon a civilian secretary, without providing him by law with the means of obtaining competent advice in solving the purely military problems for which he is responsible, and any system which fails to make such provision is faulty and incomplete.

Secretaries in the past have convened special boards without number in attempts to settle vexatious questions of this character which arise from time to time. Without going into the question of conditions which have arisen in these boards, it is clear that this method is unsatisfactory, and Congress and the public are left largely in the dark as to where responsibility in disputed matters rightfully belongs. If the Secretary were provided by law with that expert military advice so necessary for the successful conduct of the department, responsibility for defects and blunders could be definitely fixed.

BUREAU SYSTEM.

Another inherent defect in the present system of naval administration is the bureau system as it stands under existing law. President Roosevelt in his last annual message stated it tersely when he said that "there is literally no excuse whatever for continuing the present bureau organization of the navy."

This organization consists of eight separate and distinct bureaus, each independent and supreme in itself. It is proper that there should be a natural division of the work of this great department, but I can see no defense of a law which provides that—

> The orders of the chief of bureau shall be construed as emanating from the Secretary of the Navy, and shall have full force and effect as such.

The clause practically sets up eight independent secretaries of the navy, each supreme in his division of naval duties. The tendency of the system is to place the interest of the bureau above the interest of the navy as a whole. Furthermore, this independence has deprived the Government of the benefit of the inventive genius of the country not found within the bureaus themselves.

I do not criticise these chiefs of bureaus as men and officers. Human nature would have to be amended if we expected them to do anything else but strive to magnify the importance of the duties of their respective bureaus.

It needs no explanation to point out that under this system the work of the bureaus is not and can not be properly coordinated. There is but one way under the law whereby they may be coordinated, and that by the Secretary himself. This would be a physical impossibility with the many questions arising, but we devolve this duty upon him without providing any advisers by law to assist him in his impossible task.

The baneful defects of the existing system have shown themselves in many directions. In the question of the design of ships, we have recently witnessed the entire navy engaged in a fierce discussion of the armor-belt line. Without attempting to say which side was correct in its contentions, it must be apparent that the efficiency of the navy, its discipline, and its fighting spirit is in no way promoted by these unseemly internal strifes.

The general public regarded this as a controversy between the bureau advocates on one side defending their actions, and on the other side the line officers of the navy—the men who must be the ones to use these weapons in the national defense.

We see it in the movement of ships. A recent issue of the Literary Digest relates that not long ago the captain of a battle ship received orders from one bureau to sail from a navy-yard at once, while at the same time he was threatened with court-martial by another bureau if he did so.

In the equipment of ships we find many examples of conflicts of authority; unnatural and unbusinesslike division of duties and functions, with the consequent delays and extravagances which inevitably follow.

Can anyone defend a system where the installation of the fire-control apparatus on a war ship is divided up among three separate and distinct bureaus?

Is it businesslike to have the engines and pumps of a ship under the jurisdiction of one bureau, while the steam pipes leading to them, and necessarily an integral part of them, are under the control of another bureau?

Many instances could be cited to show that the lines of authority between different bureaus within a single battle ship are mixed in bewildering confusion and cross and recross each other at many points.

We have seen the wastefulness of the system best exemplified in the repair of ships as conducted at navy-yards. With each bureau not only independent by law, but separately provided by Congress with its own appropriation, there grew up at each navy-yard not a single well-developed plant, but in reality each bureau was building up at the several yards its own independent plant, with separate buildings, machinery, and workmen.

At these navy-yards were three or four carpenter shops, as many pattern shops, paint shops, blacksmith shops, and so forth. No business man would tolerate such a condition for a moment, as its wastefulness and extravagance is plain.

To the credit of Secretary Newberry be it said that he has taken steps to modernize the business side of the repair of ships at navy-yards through the consolidation of similar shops. That this has worked well is shown by the last report of the Bureau of Steam Engineering, which says:

> During the past year all pattern, copper, and foundry work at the larger eastern yards has been consolidated under this bureau, and the system has now been in operation long enough to show that it will result in increased efficiency and in economy of operation to the Government, and that after the various shops have been thoroughly arranged to meet the new conditions there will be still further improvement in this direction.

I understand that the Secretary has further plans for consolidation and the elimination of the bureau system at navy-yards, which are to be put in force in the near future.

These examples only emphasize the anomalous condition of naval administration. With eight separate bureaus of equal authority, all independent of one another, the essential element of corelation and coordination is dependent entirely upon the pleasure of the bureau chief.

These eight bureaus have to do with the construction and the maintenance of the entire navy. The responsibility is divided, scattered, and many times entirely lost in the intricacies of the present system.

From the standpoint of economy there is great need of reform in the manner of making the naval estimates to Congress. There can not be proper supervision and scrutiny of appropriations by Congress so long as they are made as at present under this system of eight independent bureaus. The naval bill for the coming fiscal year contains separate appropriations for five

different bureaus for public works, and separate appropriations for three different bureaus for machinery and tools. Economy demands that expenditures for public works, machinery, and tools, and other similar items of purely industrial character should be centered in one control.

The need of reform in this important branch of the public service is not of recent origin. It was pointed out as far back as the days of Secretary Whitney in 1885, and from that time down to the present it has been repeatedly recommended by successive Secretaries of the Navy.

SECRETARY WHITNEY'S VIEWS.

Secretary William C. Whitney was at the head of the Navy Department long enough to learn the inherent defects of the system, and in his annual report for 1885 he says:

It must be evident that there is something radically wrong with the department. The universal dissatisfaction is the conclusive proof of this. It is expressed to me by influential members of both political parties, and quite universally by naval officers. It forces itself daily upon me for consideration.

He pointed out the difficulties encountered under the present form of administration, and said:

The natural division of the work of the department is into three branches:

First. The department having to do with the personnel and the fleet. This covers the enrollment, service, detail, uniform, organization, and discipline of the personnel; of the movements and command of fleets and vessels when commissioned; and this is properly the military branch of the department.

Second. The Department of Material and Construction. This covers the construction, repair, and care of vessels before commissioned; their armament and equipment, including military stores (but not provisions and clothing), as well as the management and maintenance of dockyards, their buildings, machinery, and their civil establishment.

Third. The Department of Finance and Accounts; this covering contracts and purchases of all naval stores, flags, coal, stationery, and care of storehouses, etc.

He saw with great clearness the disadvantages which come to us by not availing ourselves of the inventive genius of the country in naval construction and architecture:

All the great naval powers appear to have found it to be to their advantage to avail themselves largely of private enterprise in the creation of implements of war. No designing engineer of the English Admiralty has designed an engine for many years. In their stead the private marine-engine builders of the nation, who can produce evidence of adequate responsibility, are invited to compete with each other to produce, for example, an engine that shall be able to accomplish certain defined results, such as a certain amount of power with the greatest amount of power with the greatest economy of weight and space consistent with strength and durability.

With us, on the contrary, the head of the Bureau of Steam Engineering, upon whom we depend for designs, is selected from a corps which is at present given by the Government only an elementary training in the science of engineering. He is at once loaded down with the distracting executive work of construction. Having the charge of a multitude of shops in the various yards, he must look after a great variety of contracts, purchases, and so on. In addition to all this, for which of itself few men are equal, he is expected to design the most complicated machinery and give his country the benefit of the daily improvements in his art. It is needless to say that to such a task no man is equal.

The policy of enlisting private enterprise in the work tends to the creation and development of important branches of industry within the country. The resources of our country, its ingenuity and enterprise in any line of human endeavor, when called out, are unexcelled by any nation or people on earth.

Our Government has placed itself in no relation to the inventive genius of the country, and is without the rich fruits which such a course would bring to it.

On the question of the broad general policy of the department, Secretary Whitney said:

Another distinction to which attention may properly be called between our system and that in general use elsewhere is as to the manner in which the general policy of the department is shaped and directed. At the top of the system there should be wise general direction. It is of first importance that the system should center in a wise and judicious and capable directing power, for there is necessarily the daily decision to be made of what shall be done in any particular line.

The naval powers of the Old World provide a permanent council or board, whose duty it is to consult with and advise the minister of marine. They are largely freed of executive duties and functions, so that they may have time for investigation and study, and to be thus enabled to take a large view generally of the questions which are involved in directing the course and general policy of the department.

When the bureau system was devised it was supposed that the bureau chiefs would be able to sit in consultation with the Secretary, and that the department would not lack intelligent guidance. But the inevitable result of throwing large executive duties upon any man is to disqualify him for council. At the present time this function is not performed at all.

My experience of the manner in which important decisions are necessarily made by the Secretary, without opportunity for proper deliberation and intelligent advice, leads me to say without hesitation that the follies of the department are largely attributable to this.

As in the English service, and notably in the French and German, the Secretary should be provided with a board or boards for consultation, consisting of naval officers and experts, most of them comparatively free from executive duties, whose duty it should be to assist him in solving the technical problems of the department.

He sums up his recommendations in the following language:

The system of organization indicated herein begins with the Secretary (who occupies a position at the confluence of all the powers confided to the department) and supports him with some aids or advisers in such number and of such character as shall seem judicious. Then places one person at the head of each of the three natural divisions of the functions of the department, which may be stated to be finance, construction, and personnel; then subdivides the business of each division according to the subject-matter with which each deals. Thus the division of material and construction would necessarily have a subdivision or bureau for engineering, one for construction, one for equipment, and one for ordnance.

At present the four heads of these bureaus, instead of cooperating, work independently of each other and not always in harmony in producing their respective parts of a completed ship.

If such an organization should commend itself to the lawmaking power and be once tried, I feel confident it would be of great benefit to the country.

It calls for no additional expenditures.

SECRETARY LONG'S RECOMMENDATIONS.

Hon. John D. Long, who for five years was Secretary of the Navy, made the following recommendation for the consolidation of bureaus in his annual report for 1899:

In the opinion of the department it would be in the interest of good business organization and economy to consolidate the three bureaus of Construction and Repair, Steam Engineering, and Equipment under one head—the Bureau of Ships. These bureaus have to do with the construction and fitting out of vessels; in one word, the material of the ship. It is an integral work. When a contract is made for the construction of a ship, it is made with one builder. It is not given part to a constructor of hulls, part to a steam-engine manufacturer, and part to an outfitting firm. Whatever various trades enter into the work are all under one head. This is the method of private shipyards which build the largest ships and which are not left to the administration of three heads between whom delicate questions of respective authority and responsibility are liable to arise, resulting in delays and too often in friction and lack of harmony of cooperation.

Each of the above bureaus has now, during the construction of naval vessels, its separate inspectors at each yard. A consolidated bureau could, of course, be run much cheaper than three bureaus, and a great saving made by a reduction of the now three separate working forces, both clerical and mechanical, especially in our navy-yards. Fewer naval officers would be needed, as there would be but one staff instead of three, so that more officers would be available for other duty. Under the present system one bureau brings its work to the point of readiness for the work of another, which is not always ready for it. There is necessarily a lack of that adaptation and harmony of movement which one head would secure.

If this consolidation were effected, the matter of furnishing coal and other current supplies, which is now under the direction of the Bureau of Equipment, could be easily transferred to the Bureau of Supplies and Accounts, and such other incidental changes made as became necessary.

The foregoing suggestion is made solely with a view to an improvement in departmental organization, and with the highest appreciation of the ability and dutifulness with which these bureaus have been administered under their present heads. Efficient as they have been, however, their consolidation is recommended, because it is believed that if consolidated under the direction of any one of their present heads, or of any competent officer, that efficiency would be still greater, less expense incurred, and a better business organization would succeed.

It is most interesting, in the consideration of the workings of the present system, to note what he has to say in his annual report for the year 1900 when he renewed that recommendation. Here is what he said:

The recommendation heretofore made that the organization of the Navy Department be simplified by the consolidation of the three bureaus of Construction and Repair, Steam Engineering, and Equipment is renewed. Under the present system, from the inception of its design until completed and placed in commission, the plans and specifications of a naval vessel are in the hands of three bureaus, each with a distinct organization, each having exclusive jurisdiction within certain lines, and all charged with the duty of carrying on work within, but not beyond, their respective provinces, as nearly as may be at the same time.

Such a system is, in practical administration, cumbrous and expensive, and from its very nature tends to develop controversies respecting the scope of each bureau's duties and to occasion friction, delay, and want of harmony in doing whatever approaches border lines of jurisdiction. It is to the credit of the officers in charge of the bureaus concerned that work upon ships now under construction has been carried on without more friction; but the system itself is none the less objectionable, and is a source of inconvenience, delay, largely increased cost, and occasional confusion.

The present divided organization is the outgrowth of conditions which no longer exist. The hull, the propelling machinery, and the articles of equipment of a modern steamship no longer constitute simple, distinct, and separable elements in construction, but, on the contrary, in their multiplicity of details are so interwoven as to render embarrassing their supervision by three sets of independent administrative officials.

The union of these three bureaus, the chief function of which is to deal with the material of the ship, into one bureau, which might appropriately be called the "Bureau of Ships;" the consolidation of their several corps of assistants and inspectors, and the conduct of the really integral work of building and equipping vessels, under the management of one responsible chief instead of three chiefs, would promote the efficient and economical administration of this important part of the business of the Navy Department.

A chief of bureau is practically an assistant secretary. The proposed consolidation would not only reduce three of these assistants to one, but in like manner reduce the supervising, mechanical, and clerical forces in every navy-yard, and thus save great and unnecessary expense. At present each of these bureaus in question has at each yard its separate shops, inspectors, foremen, and workmen, all often doing the same kind of work. No private business is run on such a wasteful and inharmonious plan. I renew the recommendation in this respect of my last annual report.

SECRETARY MOODY'S VIEWS.

Hon. William H. Moody, while Secretary of the Navy, made a careful study of this subject, and his views are contained in his annual report for 1903, from which the following extracts are made:

As the naval establishment grows in importance and the amount of public money devoted to its maintenance is increased, its proper administration justly becomes an object of solicitude. It is asserted by many, both within and without the naval service, that alterations in the or-

ganic law governing the administration of naval affairs would result in an increased efficiency and economy. It has been pointed out with truth that in the civil war, and, in a very much less degree, in the war with Spain, the organization proved inadequate.

The business of the department is distributed among eight bureaus, at the head of each of which is a naval officer appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The distribution of business among the several bureaus is within the discretion of the Secretary, but this discretion ought not to be exercised in such a manner as to abolish in effect any bureau, nor can he terminate the tenure of office of the bureau chiefs.

The distribution of business among bureaus independent of and unrelated to each other, except through the action of the Secretary, unquestionably creates a condition out of which grow conflicts of jurisdiction between the bureaus, sometimes injurious, and a tendency to consider the interests of the bureaus rather than the interests of the navy. The division of business in the bureaus exists not only in the department, but extends to the navy-yards, and even to some extent to the ships in commission. This leads sometimes to excessive and cumbersome organization and lack of harmony of effort, resulting from the fact that there is no coordination of work, except by the voluntary action of bureau chiefs, short of the Secretary's office itself.

It is vitally important that there should be available to the civilian head of the department the most accurate military information and the best military advice. Without both he would be sure to commit grave errors, which might lead to disastrous results. It clearly follows that there should be some military man or men charged with the duty of collecting and collating information and the giving of responsible advice on military affairs. The organization which lacks this feature is defective in a vital part. The statutory organization of the department includes no agency which is charged with this most important function.

The proposals for changes may be classified as follows:

First. Alterations in the organization of navy-yards which will increase the power and responsibility there over and for work progressing therein.

Second. The consolidation of the bureaus in the department.

Third. The creation of a general staff, which shall be responsible for the efficiency of the vessels afloat and the personnel of the navy, collect and digest military information upon which plans for active operations may be formulated, and act as the military adviser of the Secretary.

I venture to express the hope that Congress may give to the whole subject of the organization of our naval establishment its best thought and attention. The cost of our naval establishment, as well as the importance of the efficiency of our navy, would amply warrant all the study which can be given.

And so it goes. Those responsible for the efficiency of the service as a whole have shown clearly the necessity for modification of the existing system; and yet the system itself, with its shortcomings and defects revealed, has been able to perpetuate itself.

This magnificent navy of ours is entitled to a modern system of administration. To bring about that wise general direction at the top, the Secretary should be provided with such aids or advisers as may be wise and judicious; and in making such provision, executive and administrative duties should be divorced from the duties of counsel and advice.

The proper coordination and corelation of the bureaus should be secured by making them subordinate to the Secretary, and not independent and equal. This can be accomplished by repealing that clause of existing law—the source of many of the defects of the present system—which provides that—

The orders of a chief of bureau shall be considered as emanating from the Secretary of the Navy, and shall have full force and effect as such.

Then divide the navy into two grand divisions—personnel and matériel, military and civil—and consolidate those bureaus which have to do with the integral work of constructing and equipping the ships.

Such an organization, if properly worked out in detail, will put an end to the constantly recurring controversies, which are the best evidence that the present system is faulty and defective. It will put the purely industrial side of the navy on a business basis, and thus result in a saving of millions of dollars to the people. But, above all, it will provide proper consideration for the broad problems of the navy as a whole, and make certain the highest possible standard of efficiency in every branch of the service.

Mr. GAINES of Tennessee. Mr. Chairman, I want to insert in the RECORD the bill which I alluded to to-day in making my speech.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to insert in the RECORD the matter referred to by him. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

The matter referred to is as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF THE CHIEF CLERK,
Washington, January 20, 1909.

Hon. J. W. GAINES, M. C.,
House of Representatives, Washington, D. C.

DEAR SIR: As directed by the Attorney General, I enclose herewith two copies of the bill in the "Powder Trust" case, in response to your telegram of this afternoon. There is no expense in connection with this matter.

Very truly, yours,

O. J. FIELD,
Chief Clerk.

No. 280.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF DELAWARE.

United States of America, Petitioner, *v.* E. I. du Pont de Nemours and Company and Others, Defendants.

To the honorable the judges of the Circuit Court of the United States for the District of Delaware, sitting in equity:

The United States of America, by John P. Nields, its United States attorney for the District of Delaware, acting under direction of the Attorney-General, brings this proceeding in equity against E. I. du Pont de Nemours and Company; E. I. du Pont de Nemours Powder Company (of New Jersey); du Pont International Powder Company; Delaware Securities Company; California Investment Company; Delaware Investment Company; The Hazard Powder Company; Laflin & Rand Powder Company; Eastern Dynamite Company; E. I. du Pont de Nemours Powder Company (of Delaware); E. I. du Pont de Nemours and Company of Pennsylvania; The King Powder Company; Austin Powder Company of Cleveland; California Powder Works; Conemaugh Powder Company; Fairmont Powder Company; International Smokeless Powder and Chemical Company; Judson Dynamite and Powder Company of California; Metropolitan Powder Company; Peyton Chemical Company; The Ætna Powder Company; The American E. C. & Schultze Gunpowder Company, Limited; The American Powder Mills; The Anthony Powder Company, Limited; The Equitable Powder Manufacturing Company; The Miami Powder Company; Alexis I. du Pont; Alfred I. du Pont; Eugene du Pont; Eugene E. du Pont; Henry A. du Pont; Harry F. du Pont; Irenee du Pont; Francis I. du Pont; Pierre S. du Pont; Thomas Coleman du Pont; Victor du Pont, jr.; Jonathan A. Haskell; Arthur J. Moxham; Hamilton M. Barksdale; Henry F. Baldwin; Edmond G. Buckner, and Frank L. Connable.

And thereupon your petitioner, upon information and belief, complains and alleges as follows:

I.

THE PARTIES DEFENDANT.

E. I. du Pont de Nemours and Company is a corporation organized under the laws of the State of Delaware and carrying on business in said State, with its principal offices at the city of Wilmington, Del., where its president, Thomas Coleman du Pont, may be found.

Its authorized capital stock is	$20,000,000
Its issued capital stock is	12,300,000
Bonded indebtedness	10,000,000

E. I. du Pont de Nemours Powder Company (of New Jersey) is a corporation organized under the laws of the State of New Jersey, and carrying on business in the State of Delaware, with its principal offices at the said city of Wilmington, and that the said Thomas Coleman du Pont is the president of said company.

Its authorized capital stock is		$55,000,000
Its issued capital stock is		39,794,900
Preferred	$19,897,450	
Common	19,897,450	

Du Pont International Powder Company is a corporation organized under the laws of the State of Delaware and carrying on business in said State, with its principal offices at the city of Wilmington, and that the said Thomas Coleman du Pont is the president of said company.

Its authorized and issued capital stock is		$10,000,000
Preferred	$1,000,000	
Common	9,000,000	
Bonded indebtedness		1,000,000

Delaware Securities Company is a corporation organized under the laws of the State of Delaware and carrying on its business in said State, with its principal offices in the city of Wilmington, where its president, Arthur J. Moxham, may be found.

Its authorized capital stock is	$8,000,000
Its issued capital stock is	4,200,000
Bonded indebtedness	3,988,400

California Investment Company is a corporation organized under the laws of the State of Delaware and carrying on its business in said State, with its principal offices in the city of Wilmington, and its president is the said Thomas Coleman du Pont.

Its authorized and issued capital stock is	$400,000
Bonded indebtedness	100,000

Delaware Investment Company is a corporation organized under the laws of the State of Delaware and carrying on its business in said State, with its principal offices in the city of Wilmington, and its president is the said Arthur J. Moxham.

Its authorized and issued capital stock is	$2,500,000
Bonded indebtedness	2,500,000

The Hazard Powder Company is a corporation organized under the laws of the State of Connecticut and carrying on its business in the State of Delaware, with its principal offices at the said city of Wilmington, and that the president of said company is the said Thomas Coleman du Pont.

Its authorized and issued capital stock is	$1,000,000

Laflin & Rand Powder Company is a corporation organized under the laws of the State of New York and carrying on its business in the said State of Delaware, with its principal offices at the city of Wilmington, where its president, Joanthan A. Haskell, may be found.

Its authorized and issued capital stock is	$1,000,000

Eastern Dynamite Company is a corporation organized under the laws of the State of New Jersey and carrying on business in the State of Delaware, with its principal offices at the city of Wilmington, and its president is the said Jonathan A. Haskell.

Its authorized and issued capital stock is	$2,000,000

E. I. du Pont de Nemours Powder Company (of Delaware) is a corporation organized under the laws of the State of Delaware and carrying on its business in said State, with its principal offices at the city of Wilmington, and that the said Thomas Coleman du Pont is its president.

Its authorized and issued capital stock is	$10,000

E. I. du Pont de Nemours and Company of Pennsylvania, is a corporation organized under the laws of the State of Pennsylvania and carrying on its business in said State, with its principal offices at the city of Scranton, Pa.

Its authorized and issued capital stock is $2,000,000
Preferred $1,275,000
Common 725,000

The King Powder Company is a corporation organized under the laws of the State of Ohio, with offices at Cincinnati, Ohio.

Its authorized and issued capital stock is $325,000

Austin Powder Company, of Cleveland, is a corporation organized under the laws of the State of Ohio, with offices at Cleveland, Ohio.

Its authorized and issued capital stock is $400,000

California Powder Works is a corporation organized under the laws of the State of California, with offices at San Francisco, Cal.

Its authorized and issued capital stock is $3,000,000

Conemaugh Powder Company is a corporation organized under the laws of the State of Pennsylvania, with offices at Johnstown, Pa.

Its authorized and issued capital stock is $80,000
Bonded indebtedness 35,000

Fairmont Powder Company is a corporation organized under the laws of the State of West Virginia, with offices at Christiana Hundred, in the State of Delaware.

Its authorized and issued capital stock is $75,000

International Smokeless Powder and Chemical Company is a corporation organized under the laws of the State of New Jersey, with offices at Wilmington, Del., where its president, the said E. G. Buckner, may be found.

Its authorized capital stock is $10,000,000
Its issued capital stock is 9,600,000
Preferred $4,800,000
Common 4,800,000

Judson Dynamite and Powder Company of California is a corporation organized under the laws of the State of California, with offices at San Francisco.

Its authorized and issued capital stock is $2,000,000

Metropolitan Powder Company is a corporation organized under the laws of the State of California, with offices at Hercules, Cal.

Its authorized and issued capital stock is $200,000

Peyton Chemical Company is a corporation organized under the laws of the State of California, with offices at San Francisco.

Its authorized and issued capital stock is $635,000

The Ætna Powder Company is a corporation organized under the laws of the State of Indiana, with offices at Chicago, Ill.

Its authorized and issued capital stock is $300,000

The American E. C. & Schultze Gunpowder Company, Limited, is a corporation organized under the laws of Great Britain and Ireland, with offices at London, England.

Its authorized capital stock is ..... pounds sterling ... 100,000
Its issued capital stock is ..... pounds-sterling ... 75,000

The American Powder Mills is a corporation organized under the laws of the State of Massachusetts, with offices at Boston, Mass.

Its authorized and issued capital stock is $300,000

The Anthony Powder Company, Limited, is a partnership association organized under the laws of the State of Michigan, with offices at Ishpeming, Mich.

Its authorized and issued capital stock is $40,000

The Equitable Powder Manufacturing Company is a corporation organized under the laws of the State of New Jersey, with offices at Wann, Ill.

Its authorized and issued capital stock is $100,000

The Miami Powder Company is a corporation organized under the laws of New Jersey, with offices at Xenia, Ohio.

Its authorized and issued capital stock is $300,000

That the individual defendants, Alexis I. du Pont, Alfred I. du Pont, Irénée du Pont, Pierre S. du Pont, Thomas Coleman du Pont, and Hamilton M. Barksdale, and each of them, have been and now are directors of E. I. du Pont de Nemours & Company, of the E. I. du Pont de Nemours Powder Company (of New Jersey), and of the E. I. du Pont de Nemours Powder Company (of Delaware), and have attended the meetings of the board of directors of each of said companies from time to time held in the city of Wilmington in said State, and have participated in and are now participating in the direction and management of the business of each of said companies, and are responsible therefor.

That the individual defendants, Eugene E. du Pont, Francis I. du Pont, Harry F. du Pont, Victor du Pont, jr., Jonathan A. Haskell, Arthur J. Moxham, Henry F. Baldwin, and Frank L. Connable, and each of them, have been and now are directors in the E. I. du Pont de Nemours Powder Company (of New Jersey), and have attended the meetings of the board of directors of said company held in said city of Wilmington, and have participated and are now participating in the direction and management of its business, and are responsible therefor.

That the individual defendants, Eugene du Pont, Eugene E. du Pont, and Francis I. du Pont, and each of them, have been and now are directors of E. I. du Pont de Nemours & Company, and have attended the meetings of the board of directors of said company held in said city of Wilmington, and have participated in and are now participating in the direction and management of the business of said company, and are responsible therefor.

That the defendants, Edmond G. Buckner, Alexis I. du Pont, Pierre S. du Pont, Thomas Coleman du Pont, Jonathan A. Haskell, Arthur J. Moxham, and Henry F. Baldwin, and each of them, have been and now are directors of the International Smokeless Powder and Chemical Company, and have attended the meetings of the board of directors of said company held in said city of Wilmington, and have participated in and are now participating in the direction and management of the business of said company, and are responsible therefor.

That the defendant Henry A. du Pont was the president and a member of the board of directors of E. I. du Pont de Nemours and Company from the time of its organization until the 1st day of January, 1906, during which time he attended from time to time the meetings of the board of directors of said company, held in the city of Wilmington, and participated in the direction and management of its business and was responsible therefor; that at the time of the filing of this petition the said Henry A. du Pont was one of the principal stockholders in said company, and during all of the times herein mentioned has been and now is exercising a dominant influence over the management and business of said company and is responsible therefor.

That each and all of said individual defendants are citizens and residents of said State of Delaware and may be found therein.

That the aforesaid defendants and each of them are engaged in interstate trade and commerce in the shipment and sale of gunpowder or other high explosives among the various States and Territories of the United States and the District of Columbia in violation of the provisions of the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce," and the amendments thereto. That this proceeding is instituted by the United States of America under direction of its Attorney-General to prevent and restrain the hereinafter particularly described agreements, contracts, combinations, and conspiracies in restraint of trade in such commodities among the several States and Territories of the United States and the District of Columbia; and to prevent and restrain the attempts to monopolize, and the contracts, combinations, and conspiracies to monopolize, and the existing monopolies of such trade and commerce among the several States and Territories in such commodities, and the agreements, contracts, combinations, and conspiracies by and between said defendants and others engaged in shipping and selling gunpowder and other high explosives among the various States and Territories of the United States intended to operate in restraint of lawful and proper competition in such trade and commerce therein and to increase and maintain the price at which such commodities shall be sold among the various States.

II.

ORIGIN OF THE CONSPIRACY AND THE VARIOUS FORMS WHICH IT ASSUMED.

That some time in the year 1872 there was organized an association composed of practically all of the manufacturers of gunpowder and other high explosives in the United States, the members of which said association were as follows: E. I. du Pont de Nemours & Co., The Hazard Powder Company, Laflin & Rand Powder Company, Oriental Powder Mills, American Powder Company, The Miami Powder Company, and Austin Powder Company of Cleveland, all of which or their successors are defendants herein; that the object and purpose of said association was the elimination of all competition between the members thereof in the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States; that the only manufacturers of gunpowder and other high explosives which did not join such association at the time of its organization were the California Powder Works, The Sycamore Manufacturing Company, and The Lake Superior Powder Company, but your petitioner alleges that each of said three last-named companies thereafter became parties to the combination and conspiracy in restraint of trade and commerce herein described in the manner hereinafter more particularly set forth; that said corporations, parties to said association, as aforesaid, together with certain individuals and other corporations specifically named hereinafter, which having thereafter from time to time joined said association for the purposes aforesaid, have ever since the year 1872 been engaged in a combination and conspiracy to suppress competition in and restrain the trade and commerce in the shipment and sale of gunpowder and other high explosives throughout the various States and Territories of the United States.

That said combination and conspiracy, formed for the purposes aforesaid, did from time to time thereafter assume various forms and resort to various devices, means, and practices in furtherance of the purpose to suppress and restrain trade in the shipment and sale of gunpowder and other high explosives, and in order to monopolize the same, all of which is hereinafter more specifically alleged; that finally, to wit, in the year 1903, such combination and conspiracy was conducted and carried on through and by means of the instrumentality of a holding company known as the E. I. du Pont de Nemours Powder Company (of New Jersey), which said company was in turn controlled by another holding company organized under the laws of the State of Delaware, known as E. I. du Pont Nemours and Company; that during all the times mentioned in this petition the combination and conspiracy herein described has been maintained for the express purpose and with the sole object of eliminating competition in the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States and for the purpose of restraining and monopolizing such trade and commerce; and that said combination and conspiracy has at various times assumed different forms, but always with the same purpose and object in view, viz, to suppress competition in and monopolize the said trade and commerce; that in order to properly describe the various forms which such combination and conspiracy has assumed it will be convenient for the purposes of this bill to consider the same with reference to certain periods, as follows: First period, from 1872 to 1881; second period, from 1881 to 1886; third period, from 1886 to 1891; fourth period, from 1891 to 1896; fifth period, from 1896 to 1902, and the sixth period, from 1902 to the time of the filing of this petition.

That during the first period herein mentioned, the combination and conspiracy took the form of a simple association composed of the following copartnerships and corporations, to wit: E. I du Pont de Nemours & Co., The Hazard Powder Company, Laflin & Rand Powder Company, Oriental Powder Mills, American Powder Company, The Miami Powder Company, and the Austin Powder Company of Cleveland, which said association was during all of said period and thereafter commonly known and described as the "Gunpowder Trade Association of the United States;" that the professed purpose of said association was to secure to the members thereof an equitable adjustment and maintenance of the prices at which gunpowder and other high explosives should be equipped and sold by the members of said association to the trade among the various States and Territories of the United States.

And your petitioner alleges that during all of said first period all competition between the members of said association in the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States was suppressed and eliminated, and that the members of said association were during all of said time in a combination and conspiracy with each other to exclude all other persons, partnerships, and corporations which were not members of said association from the shipment and sale of gunpowder and other high explosives among the several States and Territories of the United States.

That during the period from 1881 to 1886, known as the second period, the said "Gunpowder Trade Association of the United States"

and the various members thereof continued in existence and in active operation in substantially the same manner as they had continued and operated during the time of the first period herein described.

That in the year 1886 the various parties to the said "Gunpowder Trade Association of the United States" and others hereinafter more specifically named, who in the meantime had become members of said association in furtherance of said combination and conspiracy, entered into a certain other agreement, in writing, commonly known as the "Fundamental agreement," wherein it was provided among other things that the prices at which gunpowder and other high explosives should be shipped and sold to the trade among the various States of the Union should be from time to time fixed and maintained by the various parties to said "Fundamental agreement," and that all competition in such trade and commerce between the parties thereto should be suppressed and eliminated, and in order to enforce an observance of the prices by the parties thereto when so fixed, it was provided that certain fines and penalties should be imposed upon and collected from the parties to said agreement who should from time to time violate the terms thereof; and your petitioner alleges that a further object of the said "Fundamental agreement" was to force out of and eliminate from such trade and commerce by the concerted action of the members of said "Fundamental agreement" any and all persons, partnerships, or corporations which were not members thereof; that during said third period the parties to said "Fundamental agreement" did from year to year act and conduct their respective businesses in strict observance of the terms thereof, as hereinafter more particularly alleged.

That in the year 1891 the various parties to the said "Fundamental agreement," hereinbefore described, entered into a certain other agreement, in writing, known as the "Presidents' agreement," in furtherance of the combination and conspiracy herein charged, and for the express purpose of more effectually eliminating competition between the various parties thereto in the trade and commerce in the shipment and sale of gunpowder and other high explosives among the several States and Territories of the United States and for the purpose of restraining and monopolizing said trade and commerce, as hereinafter more particularly alleged.

That in the year 1896 the various parties to the said "Presidents' agreement," hereinbefore described, and others hereinafter more specifically named, who in the meantime had from time to time become members of said "Presidents' agreement," and in furtherance of the combination and conspiracy as herein alleged, entered into that certain other agreement, in writing, known and described as "The pool agreement of 1896," the sole object and purpose of which was to suppress competition between the parties thereto in the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States, and to restrain and monopolize such trade, as hereinafter more specifically alleged.

That during the sixth period of said combination and conspiracy, and for the purpose of more effectually perfecting the same and in order that the members thereof might continue to monopolize and restrain said trade and commerce in substantially the same manner as they had done during the first, second, third, fourth, and fifth periods, hereinbefore referred to, certain of the individual and corporate defendants hereinafter named caused to be organized under the laws of the States of New Jersey and Delaware certain corporations as stockholding companies and as instrumentalities to be thereafter used in furtherance of the combination and conspiracy herein described, and thereupon from time to time conveyed, or caused to be conveyed, to such holding companies in some instances a large part of and in many cases a majority of the capital stocks of corporations engaged in the manufacture of gunpowder and other high explosives and shipping and selling the same among the various States of the United States, and when the control of such corporations was acquired by such stockholding companies they thereupon caused the same from time to time to be dissolved and the properties thereof to be sold and conveyed to three subsidiary companies—that is to say, in the case of the dissolution of the corporations manufacturing gunpowder or blasting powder their properties, both real and personal, were sold and conveyed, or caused to be sold and conveyed, to either the E. I. du Pont Company, the E. I. du Pont de Nemours Powder Company, its successor, or the Laflin & Rand Powder Company, while in the case of the dissolution of a corporation manufacturing dynamite, its properties, both real and personal, were sold and conveyed, or caused to be sold and conveyed, to the Eastern Dynamite Company, each of which three purchasing companies were subsidiary to and controlled by such holding companies.

III.

ORGANIZATION OF THE "GUNPOWDER TRADE ASSOCIATION OF THE UNITED STATES" AND OPERATIONS THEREUNDER DURING FIRST PERIOD, 1872 TO 1881.

Your petitioner alleges that in the year 1872 there was formed an association known as the "Gunpowder Trade Association of the United States," which was composed of practically all of the firms, copartnerships, and corporations which were at that time engaged in the manufacture and the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States and the District of Columbia, and that the several members of said association and the number of votes which each controlled therein were as follows:

	Votes.
E. I. du Pont de Nemours & Co	10
The Hazard Powder Company	10
Laflin & Rand Powder Company	10
Oriental Powder Mills	6
American Powder Company	4
The Miami Powder Company	4
Austin Powder Company of Cleveland	4

That the sole purpose of said association was to secure to the members thereof from time to time uniformity in the prices at which gunpowder and other high explosives should be shipped and sold by them to the trade in and between the various States and Territories of the United States, to eliminate and suppress all competition in said trade and commerce between the members of said association, and to prevent all other persons, firms, and corporations, which were not members of said association, from competing with them in such trade and commerce.

That during the next several years said association and the several members thereof fixed and maintained among themselves the prices at which gunpowder and other high explosives should be and were by them sold to the trade among the several States, and for the purpose of preventing other firms and corporations which were not members of said association from competing in such trade and commerce, said association and the members thereof did from time to time do and perform the various acts and things in the manner as follows, to wit:

That in the year 1875, and for a long time prior thereto, that certain corporation, known as the California Powder Works, was engaged in the manufacture of gunpowder and other high explosives in California and the shipment and sale of the same in said State and among various States and Territories of the United States, in active competition with the various parties to the said "Gunpowder Trade Association of the United States;" that in the year 1875 the various parties composing said Gunpowder Trade Association inaugurated and thereafter carried on a fierce and ruinous competitive warfare in combination with each other and against said California Powder Works for the purpose of eliminating said company as a competitive factor in the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States and in an effort to monopolize said trade and commerce; that said ruinous competitive warfare was confined to the States of the United States known as the "Pacific Slope Territory" and "Neutral Belt," which were the only territories in which the said California Powder Works had been and was at that time doing business in competition with the members of said association; that in carrying on and conducting said fierce and ruinous competitive warfare, as aforesaid, the members of said association agreed between themselves to and did ship and sell gunpowder and other high explosives in said territories in competition with the said California Powder Works at prices less than the actual cost of production of the same to the said members of said association, with the result that a short time thereafter the said California Powder Works was unable to continue longer in the business of shipping and selling its product aforesaid in said territory in competition with the members of said association, and with the consequent and additional result that the stockholders of the said California Powder Works were forced to and did sell forty-three and one-third (43⅓) per cent of the capital stock of the said California Powder Works to E. I. du Pont de Nemours & Co., a copartnership, and a member of said association as aforesaid; that the said E. I. du Pont de Nemours & Co. did purchase and acquire such capital stock in the said California Powder Works for the purpose of controlling the business of the said California Powder Works and eliminating said company as a competitor with the said members of said association in the shipment and sale of gunpowder and other high explosives in said territory; that by reason of its action against the said California Powder Works, and after the said E. I. du Pont de Nemours & Co. had acquired said capital stock as aforesaid, the said E. I. du Pont de Nemours & Co., by reason of its control in and over the said California Powder Works, was able to and did cause an agreement in the interests of itself and all the other members of said association to be entered into by and between the various members of said "Gunpowder Trade Association of the United States" and the said California Powder Works, whereby it was mutually agreed that the said California Powder Works should enjoy the exclusive right to the trade and commerce in the shipment and sale of gunpowder and other high explosives in that certain territory, comprising the States and Territories of California, Oregon, Nevada, Arizona, Idaho, Washington, Alaska, and the British possessions, all of which were west of the Rocky Mountains and described in said agreement as the "Pacific Slope Territory," subject to the right of the said E. I. du Pont de Nemours & Co. and the said Hazard Powder Company, and each of them, to ship and sell blasting powder in certain quantities and at certain prices in said "Pacific slope territory" during the years 1880 and 1881, but not thereafter; that said agreement further provided that the said California Powder Works and the said members of said Gunpowder Trade Association might, from time to time, ship and sell gunpowder and other high explosives at prices which, from time to time, were to be mutually agreed upon, in that certain territory known in said agreement as the "Neutral Belt," and which comprised the States and Territories of Montana, Wyoming, Utah, New Mexico, and Colorado; that it was further provided by said agreement that the territory of the United States lying east of said "Neutral Belt" should be the exclusive territory of the members of said association, and that the said California Powder Works should not ship or sell gunpowder or other high explosives into any of the States of the United States lying and being east of said "Neutral Belt;" that said agreement contained various provisions other than those hereinbefore specifically mentioned, among which was one authorizing the imposition and enforcement of a penalty of one ($1) dollar per keg on account of each and every keg of powder sold after the date of said agreement in violation of the terms thereof by either of the parties thereto.

That said agreement and its various provisions was thereafter mutually respected, maintained, and acted upon by the parties thereto for a period of ten (10) years from the year 1875, during which time gunpowder and other high explosives were shipped and sold to the trade in the various States comprising the said "Neutral Belt" by the parties to said agreement at prices which were from time to time by them mutually agreed upon, and that during all of said time the parties to said agreement refrained from competing with each other in said trade and commerce in those States and Territories which were by said agreement described and set aside as the exclusive territory of the respective parties thereto.

And your petitioner alleges that the said ruinous and destructive competition inaugurated and carried on by the members of said Gunpowder Trade Association against the said California Powder Works, as aforesaid, and the said agreement which was subsequently entered into as aforesaid, were all in furtherance of the combination and conspiracy on the part of the members of said association to monopolize and restrain the trade and commerce in the shipment and sale of gunpowder and other high explosives among the several States and Territories of the United States, and for the purpose of suppressing all competition between the said California Powder Works and the members of the said association in said trade and commerce.

That for many years prior to the year 1876 The Sycamore Manufacturing Company, with powder mills located near Nashville, Tenn., was engaged in the manufacture of blasting powder in the State of Tennessee and the shipment and sale of said blasting powder in said State and among various States and Territories of the United States in competition with the various members of the said Gunpowder Trade Association; that about the year 1874 the members of said association inaugurated and thereafter carried on a fierce and ruinous competitive warfare against the said Sycamore Manufacturing Company for the sole purpose of eliminating and destroying said company as a competitive factor in the shipment and sale of blasting powder into and among various of the States and Territories of the United States, during which said fierce competitive warfare the members of said association sold blasting powder in competition with the said Sycamore Manu-

facturing Company at prices less than the cost of production of the same to themselves; that as a result of said competitive warfare the said Sycamore Manufacturing Company was compelled to and did, on or about the 3d day of May, 1876, enter into a contract with the said Gunpowder Trade Association or its members whereby the said Sycamore Manufacturing Company became a party to and a member of said association respecting the shipment and sale of blasting powder among the various States and Territories of the United States; that thereafter, to wit, in the year 1877, the said E. I. du Pont de Nemours & Co. purchased substantially all of the capital stock of the said Sycamore Manufacturing Company at a price far above the real value of the entire assets of the said Sycamore Manufacturing Company, and the corporate existence of the said Sycamore Manufacturing Company was thereupon dissolved, but its corporate name was retained for many years after its dissolution in order to subserve the purposes of its purchaser.

And your petitioner alleges that the engaging in the said ruinous and destructive competition which was carried on against the said Sycamore Manufacturing Company, as aforesaid, and the making of the agreement whereby said company became a member of said association, as aforesaid, and the purchasing of the capital stock of said company by the said E. I. du Pont de Nemours & Co., as aforesaid, were all done in pursuance of the combination and conspiracy on the part of the members of said Gunpowder Trade Association to further monopolize and restrain the trade and commerce in the shipment and sale of gunpowder and other high explosives among the various States of the United States, and for the purpose of suppressing such competition between the said Sycamore Manufacturing Company and the members of said association.

That in order to further restrain, suppress, and eliminate competition in the trade and commerce in gunpowder and other high explosives among the various States, and in order to monopolize and control such trade and commerce, the said "Gunpowder Trade Association of the United States," and the aforesaid members thereof, in the year 1877 inaugurated and carried on a fierce and destructive competition against The Lake Superior Powder Company, which said last-named company was at that time an independent company and engaged in the manufacture of gunpowder and other high explosives in the State of Michigan, and the shipment and sale of the same in the said State and among various of the States of the Union in competition with the various members of said Gunpowder Trade Association; that said ruinous and destructive competition was inaugurated and carried on as aforesaid for the sole purpose of eliminating and destroying the competition of the said Lake Superior Powder Company in the shipment and sale of gunpowder and other high explosives among the various States, and for the purpose of monopolizing said trade and commerce and placing the same under the absolute control of the said Gunpowder Trade Association and the several members thereof; that as a result of said ruinous and destructive competition the said Lake Superior Powder Company, on or about the 8th day of February, 1878, was compelled and forced to and did enter into a certain agreement with the said Gunpowder Trade Association and the members thereof whereby it was agreed, among other things, that the said Lake Superior Powder Company should refrain and desist from selling gunpowder and other high explosives in any of the States of the United States except those States included in the so-called "Lake Superior District."

That said agreement made and entered into as aforesaid did not, however, operate during the next few years to effectively eliminate the competition which it was designed to eliminate, and for that reason and for the purpose of more effectually controlling and suppressing said trade and commerce, and in order to destroy and eliminate all further competition between the said Lake Superior Powder Company and the members of said Gunpowder Trade Association in the shipment and sale of gunpowder and other high explosives among the various States of the Union, the said E. I. du Pont de Nemours & Co., the said Hazard Powder Company, and the said Laflin & Rand Powder Company, all members of the said Gunpowder Trade Association, did in or about the year 1886, purchase and acquire in the proportion of about one-third each, substantially forty-eight (48) per cent of the capital stock of the said Lake Superior Powder Company, and at or about the same time certain individuals, officers, and directors of the said three powder companies, as aforesaid members of the said Gunpowder Trade Association, did purchase and acquire sufficient additional capital stock of the said Lake Superior Powder Company to lodge the absolute control of the said Lake Superior Powder Company in the members of the said Gunpowder Trade Association.

That as a result of the said purchase and acquirement of capital stock as aforesaid, the said "Gunpowder Trade Association of the United States" and the several members thereof did eliminate all competition in the trade and commerce in gunpowder and other high explosives which had theretofore been carried on by the said Lake Superior Powder Company, and ever since said time have continued to restrain trade and suppress all competition between the said Lake Superior Powder Company and the members of the said Gunpowder Trade Association and have continued to monopolize the same for the sole use and benefit of the members of the said Gunpowder Trade Association and the other defendants who have from time to time joined said combination and conspiracy as hereinafter more particularly alleged.

IV.

THE "GUNPOWDER TRADE ASSOCIATION OF THE UNITED STATES" DURING THE SECOND PERIOD, 1881 TO 1886.

That on the 1st day of June, 1881, the said Gunpowder Trade Association and the several members thereof hereinbefore specifically named, renewed the original agreement of 1872, hereinbefore described, for a further period of five years, for the purpose of continuing the restraint and monopolization in the shipment and in the sale of gunpowder and other high explosives among the several States and Territories of the United States; and your petitioner further alleges that said association did thereafter, from the year 1881 to the year 1886, exercise control over the business and operations of its several members in the shipment and sale of gunpowder and other high explosives among the several States and Territories of the United States, in substantially the same manner and with the same purposes and designs, and with the same effect upon the trade and commerce, in the shipment and sale of high explosives among the various States as it had done during the period of nine years prior to the 1st day of June, 1881, and that the vote and voice of each of said members in said association during the second period was precisely the same as under the original agreement of 1872.

That during the period from 1881 to 1886 the business of the said California Powder Works and the said Lake Superior Powder Company, and each of them in the shipment and sale of high explosives among the various States was controlled by said association in substantially the same manner as hereinbefore alleged, and that all competition between each of said companies and the members of said association was during said time suppressed and eliminated to the extent hereinbefore alleged, and that the business of the said Sycamore Manufacturing Company in the manufacture of blasting powder in Tennessee and the shipment and sale of the same among the various States was operated by the said E. I. du Pont de Nemours & Co. in complete harmony with the rules and regulations of said association as hereinbefore set forth and without competition.

That by reason of the acts, transactions, and doings hereinbefore alleged of the members of said association and of the acts, transactions, and doings hereinbefore alleged of the said Gunpowder Trade Association, the said association and its members did control during the period from 1881 to 1886 eighty-five (85) per cent of the trade and commerce in the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States, and did during said time constitute a combination in restraint of trade and commerce among the various States; that during said period there were but two independent manufacturing concerns engaged in producing gunpowder and other high explosives, and shipping and selling the same among the States in competition with the members of said Gunpowder Trade Association, which said manufacturing concerns were as follows: King's Great Western Powder Company (of Ohio), and the D. C. Rand Powder Company (of Pittsford, N. Y.); that said first-named company, or its successor, The King Powder Company, subsequently became a party to the combination and conspiracy in the manner hereinafter alleged.

OPERATIONS AGAINST INDEPENDENT COMPANIES DURING SECOND PERIOD, 1881 TO 1886.

That on the 8th day of August, 1878, there was organized under the law of the State of Ohio the King's Great Western Powder Company, which said corporation at about the same time built a powder mill near the city of Cincinnati, and for eight years thereafter manufactured thereat gunpowder and other high explosives and shipped and sold the same in the said State of Ohio and among the several States of the Union in active competition with the several members of the said Gunpowder Trade Association.

That on the 18th day of May, 1881, there was organized under the laws of the State of New York the Marcellus Powder Company, which said corporation at about the same time built a powder mill at Marcellus, in said State, and for five years thereafter manufactured thereat blasting powder and other high explosives and shipped and sold the same in the State of New York and among various States of the Union in active competition with the several members of the said Gunpowder Trade Association.

That on the 15th day of December, 1881, there was organized under the laws of the State of Ohio a corporation known as The Ohio Powder Company, which at about the same time constructed a powder mill near the city of Youngstown, Ohio, and for five years thereafter manufactured thereat blasting powder and other high explosives and shipped and sold the same in the said State of Ohio and among various States of the United States in active competition with the several members of the said Gunpowder Trade Association.

That during the next few years the active competition of the said King's Great Western Powder Company, the said Marcellus Powder Company, and the said Ohio Powder Company, described as aforesaid, proved a disturbing element and operated to seriously affect the combination in restraint of trade and the monopolization in the shipment and sale of gunpowder and other high explosives which the several members of the said Gunpowder Trade Association of the United States had respectively carried on and enjoyed up to that time, and resulted in the inauguration by the members of the said Gunpowder Trade Association of a ruinous and destructive competition against the said King's Great Western Powder Company, the said Marcellus Powder Company, and the said Ohio Powder Company for the purpose of driving said companies out of business and suppressing the competition which said companies and each of them had created and were then carrying on in opposition to the members of the said Gunpowder Trade Association.

That as a result of said destructive and ruinous competition inaugurated and carried on by the members of said association against King's Great Western Powder Company, the Marcellus Powder Company, and The Ohio Powder Company, as aforesaid, the price of blasting powder as sold in the territory which was operated in by the said three independent powder companies was reduced by the members of the said Gunpowder Trade Association from the price of two dollars and forty ($2.40) cents per keg delivered at the mines in carload lots to the price of eighty (80) cents per keg when delivered at the mines in carload lots, while in noncompetitive territories the price of blasting powder was maintained by the members of the said Gunpowder Trade Association at two dollars and forty ($2.40) cents per keg when delivered at the mines in carload lots; that such reduction in the price of powder in competitive territory made by the members of the said Gunpowder Trade Association, as aforesaid, was for the sole purpose and with the one object of driving out and eliminating the said three independent competitive powder companies from the trade and commerce in the shipment and sale of blasting powder among the various States; and complainant alleges and states the fact to be that the price of eighty cents (80) per keg for blasting powder, between the years of 1883 and 1886, was less than the cost of the manufacture of said powder to the members of said Gunpowder Trade Association, and was a price below that at which said independent powder companies, or any other powder company, could profitably manufacture and ship and sell blasting powder to the said trade, and that the action of the members of the said Gunpowder Trade Association in carrying on and conducting such ruinous and competitive warfare resulted in great financial loss not only to said independent powder companies but to the members of said Gunpowder Trade Association who were actively engaged in conducting such competitive warfare.

That as a further result of said ruinous and destructive competition inaugurated and carried on as aforesaid, the members of the said Gunpowder Trade Association reduced the price of gunpowder, when delivered at Cincinnati, Ohio, and other close competitive markets in the neighborhood of the location of the said King's Great Western Powder Company, from six dollars and twenty-five cents ($6.25) per keg to two dollars ($2) per keg, which said two dollars ($2) per keg did not represent the cost of production of said gunpowder to the members of said Gunpowder Trade Association, while at the same time the members of the said Gunpowder Trade Association main-

tained the price of gunpowder at New York and all eastern, southern, and western points where no competition existed at five dollars ($5) per keg; and your complainant alleges that the members of the said Gunpowder Trade Association during said time, to wit, from 1883 to 1886, reduced the price of gunpowder, as hereinbefore alleged, in the competitive markets in the State of Ohio and in adjacent States in which the King's Great Western Powder Company was competitor, for the purpose of destroying and eliminating the competition of said company and for the purpose of preventing said company from selling its powder except at great financial loss, and that said reduction in the price of powder, as aforesaid, was made by the members of the said Gunpowder Trade Association in furtherance of the combination and conspiracy which then existed and which ever since said time has existed between the members of the said Gunpowder Trade Association of the United States to monopolize and restrain the trade and commerce in the sale of gunpowder and other high explosives among the several States of the United States.

That as a result of such fierce and ruinous competitive warfare conducted against the said King's Great Western Powder Company by the members of the said Gunpowder Trade Association, as aforesaid, an agreement was entered into in about the year 1886 by and between the said King's Great Western Powder Company and the members of said Gunpowder Trade Association whereby it was mutually agreed and understood that the said Gunpowder Trade Association should from time to time thereafter advise the said King's Great Western Powder Company as to the price or prices established by the said Gunpowder Trade Association at which gunpowder and other high explosives should be sold among the various States by the members of said Gunpowder Trade Association, and the King's Great Western Powder Company agreed that upon receiving advice as to such prices it would maintain the same.

That ever since the year 1886 the parties to said agreement have respected the same and have operated thereunder in the shipment and sale of gunpowder; that said agreement was also observed in fixing the prices at which blasting powder and other high explosives were shipped and sold among the various States until about the year 1901, when the King Mercantile Company was formed as hereinafter alleged for the purpose of marketing the entire product of blasting powder of the King Powder Company, which last-named company was the successor of the King's Great Western Powder Company. Wherefore your petitioner charges that all competition between the said King's Great Western Powder Company and its successor, The King Powder Company, and the members of said association in the shipment and sale of gunpowder and other high explosives among the various States was and has been effectually suppressed and eliminated.

That as a further result of the said ruinous and destructive competition inaugurated and conducted as aforesaid, the said Marcellus Powder Company and the said Ohio Powder Company were so injuriously affected in their businesses that the owners of the capital stock of the said Marcellus Powder Company were compelled to and did sell and transfer in about the year 1886 to E. I. du Pont de Nemours & Co., The Hazard Powder Company, the Laflin & Rand Powder Company, and the Oriental Powder Mills substantially all of their holdings of the capital stock of the said Marcellus Powder Company, each of the said four last-named purchasing companies being then and there members of the said Gunpowder Trade Association; and at or about the same time the owners of the capital stock of the said Ohio Powder Company sold and transferred about thirty-eight (38) per cent of the capital stock of the said Ohio Powder Company to the said E. I. du Pont de Nemours & Co., the said Hazard Powder Company, and the said Laflin & Rand Powder Company in the proportion of about one-third to each of the said companies, each of said three companies, purchasers as aforesaid, being then and there members of the said Gunpowder Trade Association.

That the purchase of the capital stock of the said Marcellus Powder Company and the said Ohio Powder Company, as aforesaid, was made for the sole purpose of eliminating all competition between said companies and the members of the said Gunpowder Trade Association in the shipment and sale of blasting powder and other high explosives among the States, and with the intent then and there had and entertained by the members of the said Gunpowder Trade Association and their respective officers to monopolize the trade and commerce in the sale of blasting powder and other high explosives among the several States and Territories of the United States and the District of Columbia; and your complainant alleges that after said purchases of capital stock all competition between the said Marcellus Powder Company and the said Ohio Powder Company and the members of the said Gunpowder Trade Association ceased to exist, and that ever since said time and until the corporate existence of said companies was dissolved the said Marcellus Powder Company and the said Ohio Powder Company and each of them were parties to the conspiracy and combination to restrain and monopolize the shipment and sale of gunpowder and other high explosives throughout the United States.

That in the year 1884 E. I. du Pont de Nemours & Co., then a member of the said Gunpowder Trade Association, purchased about thirty-four (34) per cent of the capital stock of the Austin Powder Company of Cleveland, which said Austin Powder Company of Cleveland was at that time a party to the "Gunpowder Trade Association of the United States."

V.

OPERATIONS OF THE COMBINATION AND CONSPIRACY DURING THIRD PERIOD, 1886 TO 1891.

That on the 1st day of July, 1886, the various members of the said "Gunpowder Trade Association of the United States," to wit, E. I. du Pont de Nemours & Co., The Hazard Powder Company, the Laflin & Rand Powder Company, the Oriental Powder Mills, The American Powder Mills (successor to American Powder Company), the Miami Powder Company, the Austin Powder Company of Cleveland, The Sycamore Manufacturing Company, The Lake Superior Powder Company, the California Powder Works, the Schaghticoke Powder Company, the King's Great Western Powder Company, the Marcellus Powder Company, and The Ohio Powder Company were members of the combination and conspiracy herein described, and were confederated together in an attempt to monopolize the trade and commerce in the shipment and sale of gunpowder and other high explosives among the several States and Territories of the United States and the District of Columbia, as hereinbefore alleged.

That in order to more effectually eliminate competition in and in order to more completely restrain and monopolize, the trade and commerce in the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States, and in furtherance of the same combination and conspiracy which had theretofore existed, the several corporations and copartnerships above named in this subdivision did, on or about the 1st day of July, 1886, enter into an agreement in the form of a pool, which was commonly known and described as the "Fundamental agreement;" that said "Fundamental agreement" made and entered into as aforesaid contained numerous provisions, among which were the following:

That each member thereof was thereafter permitted to ship and sell in the State of its domicile and among the several States and Territories of the United States and the District of Columbia without penalty paid to the said association only a certain per centum of the total amount of gunpowder and other high explosives shipped and sold by all of the parties to said "Fundamental agreement" in the States of their domicile and among the several States and Territories of the United States and the District of Columbia, which per centum was the same per centum which each member's shipments and sales during the two years next preceding the 1st day of July, 1886, was of the total amount of the shipments and sales during the same period of time of all of the parties to said "Fundamental agreement;" that it was further provided by said "Fundamental agreement" that a penalty should be paid the treasurer of said "Fundamental agreement" by any or all of the members which were parties to said agreement which sold more gunpowder and other high explosives than their allotted share, and that compensation would be paid by said treasurer to any or all of the members which were parties to said agreement which sold less gunpowder and other high explosives than their allotted share, and that settlements under and pursuant to such arrangement should be made at the end of each quarter; your petitioner further alleges that it was provided by said "Fundamental agreement" that penalties and compensation were to be imposed and paid as follows: In the amount of one and four-tenths (1.4) cents per pound or thirty-five (35) cents per keg for all blasting powder oversold or undersold as above stated, and eight (8) cents per pound or two (2) dollars per keg for all gunpowder oversold or undersold as above stated; that such penalty and compensation was subsequently, to wit, on the 17th day of December, 1896, changed and for many years thereafter was as follows: Four (4) cents and six (6) cents per pound for blasting and sporting powders, respectively, so oversold or undersold by any of the members of the said "Fundamental agreement."

VI.

THE COMBINATION AND CONSPIRACY UNDER THE "PRESIDENTS' AGREEMENT."

[Fourth period, 1891 to 1896.]

That in the month of July, 1891, in order to continue the conspiracy and combination in restraint of trade and commerce hereinbefore described and for the purpose of more completely and effectually monopolizing such trade and commerce, the several corporations and copartnerships parties to said "Fundamental agreement," as aforesaid, entered into another agreement known as the "Presidents' agreement," which was in substance the same as the said "Fundamental agreement" so far as its object and purpose was concerned, but differed with respect to the manner in which such object and purpose was to be effected; that one of the provisions of the said "Presidents' agreement" entered into as aforesaid, required the several copartnerships and corporations parties thereto, to select each for itself a representative which representatives when so chosen and selected constituted a "Board of Trade" so-called; that such "Board of Trade" was vested by the terms of said "Presidents' agreement" with full power to control the operations and business of the several parties to said agreement and to fix the prices at which gunpowder and other high explosives should thereafter from time to time be sold among the various States and Territories of the United States; and your petitioner alleges that thereafter during the said fourth period, the several copartnerships and corporations selected representatives on such "Board of Trade," and that said board from time to time, from the year 1891 to the year 1896, fixed the prices at which gunpowder and other high explosives should be shipped and sold among the various States by the several corporations and copartnerships parties to said "Presidents' agreement;" the said "Board of Trade" also from time to time during said period imposed fines and penalties upon the several corporations and copartnerships whenever they shipped and sold gunpowder or other high explosives at prices different from those prices which had been established by said "Board of Trade."

OPERATIONS OF THE CONSPIRACY AND COMBINATION AGAINST INDEPENDENT COMPANIES DURING THE FOURTH PERIOD, 1891 TO 1896.

That on the 11th day of July, 1890, there was organized, under the laws of the State of Tennessee, The Chattanooga Powder Company, which said company shortly thereafter constructed a powder mill at Ooltewah Junction, in said State, and thereafter manufactured thereat, in large quantities, blasting powder and other high explosives and shipped and sold the same to the trade in the State of Tennessee and in various other States of the Union in active competition with the various copartnerships and corporations which were parties to the said "Fundamental agreement" and the said "Presidents' agreement."

That thereafter, to wit, on the 6th day of July, 1891, there was organized, under the laws of West Virginia, The Phoenix Powder Manufacturing Company, which said company immediately thereafter constructed three powder mills, located as follows: One in the State of New Jersey, one at Kellogg, in the State of West Virginia, and one at Phoenix, in the State of Illinois, and the said Phoenix Powder Manufacturing Company thereafter manufactured gunpowder and other high explosives in the States and at the places aforesaid, and shipped and sold the same in large quantities to the trade in the said States and in various other States of the Union in active competition with the copartnerships and corporations which were members of and parties to the "Presidents' agreement," as hereinbefore alleged.

That on the 28th day of January, 1892, there was organized under the laws of the State of New Jersey The Equitable Powder Manufacturing Company, which said company a short time thereafter constructed a powder mill at Wann, in the State of Illinois, and has ever since said time manufactured gunpowder and other high explosives at said powder mill and shipped and sold the same to the trade in the State of Illinois and various other States and Territories of the United States; that at the time of the organization of said company, E. I. du Pont de Nemours & Co., a copartnership of Delaware, acquired forty-nine (49) per cent of its capital stock for the express purpose of thereafter exercising a dominant control over the business of said corporation; that said stock acquired as aforesaid was subsequently transferred to E. I. du Pont de Nemours and Company, a corporation of Delaware, and thereafter

to its successor, E. I. du Pont de Nemours and Company, another corportation of Delaware, and subsequently to the New Jersey holding company as hereinafter alleged; that ever since the organization of the said Equitable Powder Manufacturing Company all competition in the shipment and sale of gunpowder and other high explosives between said company and the parties to the combination and conspiracy herein described has been suppressed and eliminated, and said company has ever since said time shipped and sold its manufactured product among the various States at the prices which have from time to time been fixed by the parties of said combination and conspiracy; and your petitioner alleges that the said E. I. du Pont de Nemours & Co., a copartnership of Delaware, and its successors were enabled to dominate and control, and ever since said time have dominated and controlled, the said Equitable Powder Manufacturing Company by virtue of their ownership of forty-nine (49) per cent of its capital stock as herein alleged, and that the said Equitable Powder Manufacturing Company ever since said time has been and now is a party to said combination and conspiracy.

That thereafter, to wit, on the 3d day of September, 1894, there was organized under the laws of the State of Georgia a corporation known as the Southern Powder Company, which company thereupon constructed powder mills at Tallapoosa, in the State of Georgia, and manufactured gunpowder and other high explosives at said mills, and shipped and sold the same to the trade in the said State of Georgia and among various other States of the Union, in active competition with the members and parties to the said "Presidents' agreement," as hereinbefore described.

That at the time of the organization of the said Chattanooga Powder Company the said Phoenix Powder Manufacturing Company and the said Southern Powder Company, and for several years thereafter, each of said companies conducted its business of manufacturing gunpowder and other high explosives at its respective mills, and shipping and selling the same among the various States independently of the members of the said "Presidents' agreement" and independently of each other; that such action upon the part of said companies and each of them operated to interfere with the combination in restraint of trade and the monopoly which was being maintained by the members of the said "Presidents' agreement," and thereupon the members of said "Presidents' agreement" determined to and did inaugurate and conduct a fierce and destructive competitive warfare against said independent companies, and each of them, respectively, for the purpose of driving them and each of them out of the business and of suppressing competition in the shipment and sale of gunpowder and other high explosives among the various States in which said independent companies were engaged.

That after such fierce and ruinous competitive warfare had been conducted against said companies, and each of them, by the members of the said "Presidents' agreement" for the period of about one year, the various stockholders of the said Southern Powder Company were forced to and did sell their capital stock, or a large portion thereof, in said company to E. I. du Pont de Nemours & Co., Laflin & Rand Powder Company, and the Hazard Powder Company, in the proportion of about one-third to each company, each and all of which said purchasing companies were then and there members of the said "Presidents' agreement;" and your petitioner further alleges that the said E. I. du Pont de Nemours & Co., the said Laflin & Rand Powder Company, and the said Hazard Powder Company purchased the capital stock of the said Southern Powder Company as aforesaid for the purpose of eliminating said company from the trade in which it was engaged, as hereinbefore alleged, and destroying its force as a competitive factor in said trade; and your petitioner further alleges that a short time after the control of the Southern Powder Company was acquired by the purchase of its capital stock as aforesaid, the exact time being to your petitioner unknown, the members of the said "Presidents' agreement," who purchased said capital stock, caused the mills of the said Southern Powder Company to be dismantled and destroyed, and that since said time the said Southern Powder Company has exercised no influence or effect upon the combination herein described.

That the said Chattanooga Powder Company continued to ship and sell blasting powder and other high explosives in competition with the members of the said "Presidents' agreement," notwithstanding said fierce and ruinous competitive warfare waged against it as aforesaid, until the early part of the year 1896, at which time fifty-five and forty-one one-hundredths (55.41) per cent of its capital stock was purchased and acquired by the said E. I. du Pont de Nemours & Co. and the said Laflin & Rand Powder Company, and that ever since said time, and until the purchasers of its capital stock as above alleged or their successors caused its corporate existence to be dissolved, the business of the said company was operated and controlled by the members of the said "Presidents' agreement" and in harmony therewith under the management of one F. L. Connable, one of the defendants herein.

That in the early part of the year 1896 the capital stock of the said Phœnix Powder Manufacturing Company was purchased and acquired by E. I. du Pont de Nemours & Co., the Laflin & Rand Powder Company, The American Powder Mills, and The Miami Powder Company in the same proportion as each of the said companies were entitled to make shipments and sales without penalty or compensation under the said "Presidents' agreement;" and your petitioner further alleges that the capital stock of the said Phœnix Powder Manufacturing Company was acquired by the members of the "Presidents' agreement," as aforesaid, for the express purpose and with the effect of suppressing and eliminating the competition which had theretofore existed between the said Phœnix Powder Manufacturing Company and the members of the said "Presidents' agreement" in the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States and the District of Columbia.

VII.

THE CONTROL OF THE DYNAMITE TRADE.

Your petitioner further alleges that at various times, to wit, from 1872 until June 30, 1895, during the existence of the combination and conspiracy in restraint of trade among the various States hereinbefore described, there were organized under the laws of various of the several States of the Union various corporations having for their object the manufacture and shipment and sale of a high explosive commonly known as dynamite, which said explosive is commonly used for the same purposes as those for which blasting powder is used; that the sale of dynamite, therefore, came into active competition with the sale of blasting powder, and it became necessary in order to effectually monopolize the shipment and sale of such high explosives that the members of the combination and conspiracy herein described should control the trade and commerce in dynamite among the several States and Territories of the United States and the District of Columbia; that in order to carry their purpose and intention of monopolizing such trade and commerce in such high explosives into effect the said E. I. du Pont de Nemours & Co., the said Hazard Powder Company, and the said Laflin & Rand Powder Company, and their officers and agents, organized, on or about the 30th day of June, 1895, under the laws of the State of New Jersey, a corporation known as the Eastern Dynamite Company, for the express purpose of acquiring the ownership and control of all those copartnerships, firms, and corporations which were at that time engaged in the business of manufacturing dynamite at their respective manufactories and shipping and selling the same among the various States; and your petitioner alleges that thereafter the said Eastern Dynamite Company did, at various times between the 30th day of June, 1895, and the time of the filing of this petition, acquire, by purchase, exchange of capital stocks, and by various other manipulations and transactions to your petitioner unknown, the ownership or control of the properties or capital stocks of the following-named companies, each and all of which were at the time when so acquired by the said Eastern Dynamite Company engaged in the manufacture of dynamite at their respective manufactories and in the shipment and sale of the same throughout the various States of the United States in competition with each other and in competition with the members of said "Presidents' agreement" in their manufacture and shipment and sale of blasting powder;

Acme Powder Company, a corporation under the laws of Pennsylvania;

American Forcite Powder Manufacturing Company, a corporation under the laws of New York;

The Anthony Powder Company (Limited), a partnership association under the laws of Michigan;

Atlantic Manufacturing Company, a corporation under the laws of Wisconsin;

Atlantic Dynamite Company of New Jersey, a corporation under the laws of New Jersey;

Atlantic Dynamite Company, a corporation under the laws of New York;

Brooklyn Glycerine Manufacturing and Refining Company, a corporation under the laws of New York;

Blue Ridge Powder Company, a corporation under the laws of Pennsylvania;

Clinton Dynamite Company, a corporation under the laws of New York;

The Climax Powder Manufacturing Company, a corporation under the laws of Pennsylvania;

Columbian Powder Company, a corporation under the laws of Pennsylvania;

Dittmar Powder and Chemical Company, a corporation under the laws of New Jersey;

Electric Exploder Company, a corporation under the laws of New Jersey;

Enterprise High Explosives Company, a corporation under the laws of Pennsylvania;

Explosives Supply Company, a corporation under the laws of New Jersey;

Forcite Powder Company, a corporation under the laws of New Jersey;

Forcite Powder Company, a corporation under the laws of New York;

Giant Powder Manufacturing Company, a corporation under the laws of New Jersey;

Hercules Powder Company, a corporation under the laws of Delaware;

Hercules Powder Company, a corporation under the laws of New York;

Hecla Dynamite Company, a corporation under the laws of New York;

Hecla Powder Company, a corporation under the laws of New York;

Hudson River Powder Company, a corporation under the laws of New York;

Hudson River Wood Pulp Company, a corporation under the laws of New York;

Joplin Powder Company, a corporation under the laws of Missouri;

Mount Wolf Dynamite Company, a corporation under the laws of Pennsylvania;

James MacBeth & Co., a corporation under the laws of New Jersey;

New York Powder Company, a corporation under the laws of New Jersey;

New York Powder Company, a corporation under the laws of New York;

Oliver Dynamite Company, a corporation under the laws of Pennsylvania;

Pennsylvania Torpedo Company, a corporation under the laws of New Jersey;

Producers' Powder Company, a corporation under the laws of New Jersey;

Repauno Chemical Company, a corporation under the laws of Delaware;

Repauno Chemical Company, a corporation under the laws of New York;

Repauno Manufacturing Company, a corporation under the laws of New Jersey;

Standard Explosives Company, a corporation under the laws of New Jersey;

Sterling Dynamite Company, a corporation under the laws of New Jersey;

Thompson Torpedo Company, a corporation under the laws of Pennsylvania;

United States Dynamite Company, a corporation under the laws of New Jersey;

Weldy Dynamite Company, a corporation under the laws of Pennsylvania;

Western Torpedo Company, a corporation under the laws of New Jersey; and

York Powder Company, a corporation under the laws of Pennsylvania.

And your petitioner alleges that at the time of the filing of this petition the said Eastern Dynamite Company, by and through the acquisition of the properties and the capital stocks of the above-named companies, as aforesaid, was and now is in complete control of said companies and each of them, or the properties thereof, both real and personal, and has secured and effected a substantial monopoly of the trade and commerce in the manufacture and shipment and sale of

dynamite among the various States and Territories of the United States and the District of Columbia, and that the said Eastern Dynamite Company ever since its organization has been and now is a member of the combination and conspiracy hereinbefore described, having for its object the suppression of all competition in the shipment and sale of high explosives throughout the United States and the monopolization of such commerce.

That the said Eastern Dynamite Company, after having acquired the control of said companies, as aforesaid, did from time to time during the two years next preceding the time of the filing of this petition dissolve the corporate existence of practically each and every one of said corporations and take over to itself the physical properties of such corporations when so dissolved, and thereupon continued to and now does operate the various plants and properties taken over as aforesaid as the plants and properties of the said Eastern Dynamite Company, all of which was done for the purpose of more effectually and completely monopolizing the trade and commerce in the shipment and sale of dynamite among the various States.

That at the time of the organization of the Eastern Dynamite Company, as aforesaid, and since said time the said E. I. du Pont de Nemours & Co. (or its successors), the said Hazard Powder Company, and the said Laflin and Rand Powder Company, being then and there the three largest manufacturers, shippers, and sellers of gunpowder and other high explosives in the United States and parties to said combination and conspiracy, as aforesaid, together acquired a majority of the total issue of twenty thousand (20,000) shares of the capital stock of said Eastern Dynamite Company, and at the time of the filing of this petition the following-named companies are the owners of capital stock of said Eastern Dynamite Company, as follows:

	Shares.
E. I. du Pont de Nemours Powder Company (of New Jersey)	1,900
The Hazard Powder Company	5,165
Laflin & Rand Powder Company	5,807

And your petitioner alleges that the three said companies caused the said Eastern Dynamite Company to be organized, as aforesaid, and acquired a majority of its capital stock, as aforesaid, in furtherance of said combination and in restraint of said trade and commerce, and in order to monopolize and attempt to monopolize the same, and that said corporations have ever since owned and controlled, and do now own or control together, a majority of the capital stock of the said Eastern Dynamite Company, as above alleged.

VIII.

OPERATIONS OF THE COMBINATION AND CONSPIRACY DURING THE FIFTH PERIOD, 1896 TO 1902.

Your petitioner further alleges that for the purpose of continuing said combination and conspiracy in restraint of trade in the shipment and sale of gunpowder and other high explosives among the various States, and in order to more completely monopolize the same, the various members, hereinbefore specifically named, of the said "Presidents' agreement," and other corporations which between the 1st day of July, 1891, and the 1st day of July, 1896, had been forced into said "Presidents' agreement," as aforesaid, on or about the 1st day of July, 1896, entered into a certain other agreement in the nature of a pool, thereafter known as the "Pool agreement of 1896;" that the following table contains the names of the members of said pool agreement, together with the percentages of all of the blasting and sporting powders sold by all of the members thereof which each member thereof was permitted under said pool agreement to sell to the trade among the various States without receiving compensation from the pool on account of undersales and without paying a penalty to the pool on account of oversales:

Company.	Blasting.	Sporting.
E. I. du Pont de Nemours & Co. The Hazard Powder Co. (3 companies) The Sycamore Manufacturing Co.	51.4878	65.7346
Laflin & Rand Powder Co. (2 companies) The Schaghticoke Powder Co.		
Oriental Powder Mills	4.8818	7.3129
The American Powder Mills	4.3146	9.5852
The Miami Powder Co.	4.9697	3.4573
Austin Powder Co., of Cleveland	4.8619	4.7021
The Lake Superior Powder Co.	1.4897	----------
The King Powder Co.	6.2193	5.4342
Marcellus Powder Co.	1.4897	----------
The Ohio Powder Co.	4.4690	----------
The Chattanooga Powder Co.	4.8414	----------
The Phœnix Powder Manufacturing Co.	4.7559	1.5095
The Equitable Powder Manufacturing Co.	4.0242	1.5095
Southern Powder Co.	2.1950	.7547
	100.0000	100.0000

And your petitioner alleges that the following-named persons from time to time during said period represented said companies, respectively, in the enforcement and in the practical operation of the said so-called "Pool agreement of 1896," to wit: Henry A. du Pont, Thomas Coleman du Pont, Pierre S. du Pont, and each of them, as the representatives of E. I. du Pont de Nemours & Co. or its successors; Arthur J. Moxham as the representative of The Hazard Powder Company; Jonathan A. Haskell as the representative of the Laflin & Rand Powder Company; J. B. Coleman as the representative of the Oriental Powder Mills; Murray Ballou as the representative of The American Powder Mills; Addison G. Fay and E. L. Lawrence, and each of them, as the representatives of The Miami Powder Company; Almon Lent as the representative of the Austin Powder Company of Cleveland; Charles L. Patterson as the representative of The Lake Superior Powder Company; G. M. Peters as the representative of The King Powder Company; J. Craig Smith and Walter A. Beecher, and each of them, as the representatives of The Ohio Powder Company; Frank L. Connable as the representative of The Chattanooga Powder Company, and F. W. Olin as the representative of The Phoenix Powder Manufacturing Company and The Equitable Powder Manufacturing Company; that the purpose of the said pool agreement made and entered into as aforesaid was to maintain and fix the prices at which gunpowder and other high explosives should thereafter be shipped and sold to the trade among the several States and Territories of the United States and the District of Columbia, and to suppress and eliminate all competition in such trade and commerce between and among the members of the said pool agreement and to prevent all other firms, corporations, and persons from entering into competition with the members of the said pool agreement, or any of them, in the shipment and sale of gunpowder and other high explosives among the various States.

That said pool agreement was thereafter continued in full force and effect by the various corporations and copartnerships who were parties thereto, and their respective representatives, as aforesaid, from the 1st of July, 1896, to and including the early part of the year 1902, during all of which time the trade and commerce in the shipment and sale of gunpowder and other high explosives among the various States was monopolized by the members of the said pool agreement and all competition in said trade and commerce between and among the members was suppressed and destroyed, and the prices at which gunpowder and other high explosives should be and were by them and each of them shipped and sold to the trade among the various States and Territories of the United States were from time to time fixed and established by the representatives hereinbefore named for and in behalf of the members of the said pool agreement.

That in the month of October, 1899, there was organized under the laws of the State of Delaware a corporation known as E. I. du Pont de Nemours and Company, which said last mentioned company immediately after the date of its organization took over all the business, together with all the real and personal property which at that time belonged to the said E. I. du Pont de Nemours & Co., which had theretofore been and then was a copartnership as hereinbefore alleged; that whenever E. I. du Pont de Nemours and Company is referred to as a party to any act or transaction done subsequently to the month of October, 1899, your petitioner refers to said corporation, or another corporation formed under the same name, as its successor, as hereinafter more particularly alleged, and not to said E. I. du Pont de Nemours & Co., a firm.

That in furtherance of the combination and conspiracy herein described the said E. I. du Pont de Nemours and Company and the said Laflin & Rand Powder Company, and their officers and agents, did, on the 19th day of April, 1901, organize and cause to be organized under the laws of the State of New Jersey a corporation known as the King Mercantile Company, with a capital stock of fifty thousand ($50,000) dollars, divided into five hundred (500) shares of the par value of one hundred ($100) dollars each; that at the time of the organization of said company the said E. I. du Pont de Nemours and Company and the said Laflin & Rand Powder Company acquired one hundred and eighty-eight (188) and one hundred and twenty-one (121) shares, respectively, of the capital stock of the said King Mercantile Company, being a majority thereof, and have ever since said time, and until the time when the corporate existence of said company was dissolved—(March, 1907) owned or controlled said company through and by means of their ownership and control of said capital stock; that the said King Mercantile Company was organized as aforesaid for the sole purpose of being used by the said E. I. du Pont de Nemours and Company and the said Laflin & Rand Powder Company, and their officers and agents, as an instrumentality for controlling and marketing the entire output of blasting powder of The King Powder Company, of Cincinnati, Ohio, and for the purpose of eliminating the said King Powder Company as a competitive factor in the shipment and sale of said blasting powder among the various States and Territories of the Union in competition with the said E. I. du Pont de Nemours and Company and the said Laflin & Rand Powder Company and the other parties to said combination and conspiracy; that in furtherance of said purpose the said E. I. du Pont de Nemours and Company and the said Laflin & Rand Powder Company, and their officers and agents, caused the said King Mercantile Company in the month of April, 1901, to enter into a contract in writing, to run for a period of twenty-five (25) years from its date, with the said King Powder Company, of Cincinnati, whereby it was agreed between said corporations that the said King Mercantile Company would, during said time, purchase all the blasting powder which was thereafter manufactured or produced by the said King Powder Company and pay therefor a price per keg which should be fixed from time to time by the members of the "Presidents' agreement," hereinbefore described, and which price was to be the average price maintained by the members of the said "Presidents' agreement," or its successors, from time to time in that territory lying between the New England States and the Mississippi River; and your petitioner alleges that at the time when the corporate existence of said King Mercantile Company was dissolved, to wit, on the 7th day of March, 1907, the interest of said King Mercantile Company in said contract between the said King Powder Company and the said King Mercantile Company was conveyed to the E. I. du Pont de Nemours Powder Company (of Delaware), defendant herein, and that the said contract has ever since it was entered into as aforesaid been and at the time of the filing of this bill of complaint is in full force and effect; and your petitioner further alleges that ever since the making of said contract, as aforesaid, the said King Powder Company has ceased to be a competitive factor in such trade and commerce and that all competition between the said King Powder Company and the various parties to said combination and conspiracy has been eliminated and suppressed; and your petitioner charges that ever since said time, to wit, in the month of April, 1901, the said King Powder Company has been and now is a party to the combination and conspiracy in restraint of trade, herein alleged.

OPERATIONS AGAINST INDEPENDENT COMPANIES DURING FIFTH PERIOD, 1896 TO 1902.

That on or about the 24th day of April, 1897, there was organized, under the laws of the State of Indiana, the Indiana Powder Company, which said corporation a short time thereafter constructed a powder mill at Fontanet, Ind., for the manufacture of blasting powder, and for several years thereafter continued to manufacture blasting powder at said mill and ship and sell the same to the trade in the said State of Indiana and among various States of the Union in active competition with the various members of said pool agreement, all of which during that time were parties to the combination and conspiracy herein described.

That on or about the 30th day of April, 1898, there was organized, under the laws of the State of Alabama, the Birmingham Powder Company, which, at about the same time, constructed a powder mill near the city of Birmingham, Ala., for the manufacture of blasting powder, and for many years thereafter continued to manufacture blasting powder thereat and ship and sell the same in the State of Alabama and among various States of the Union in active competition with the mem-

bers of said pool agreement, all of which were during that time parties to the conspiracy and combination herein described.

That on or about the 30th day of April, 1901, there was organized, under the laws of the State of Indiana, the Northwestern Powder Company, which thereupon constructed a powder mill at Dorner, Ind., for the manufacture of blasting powder, and which said company thereafter for one year continued to manufacture blasting powder at said mill and ship and sell the same in the said State of Indiana and among various States of the Union in active competition with the members of the said pool agreement, all of which were during that time parties to the illegal combination and conspiracy herein described.

That thereafter, to wit, on the 15th day of July, 1901, there was organized, under the laws of the State of West Virginia, the Fairmont Powder Company, which constructed a powder mill at Fairmont, W. Va., for the manufacture of blasting powder, and which said company for a very short time thereafter continued to manufacture blasting powder thereat and ship and sell the same in the State of West Virginia and among various States of the Union in active competition with the members of the said pool agreement; that a short time thereafter the said E. I. du Pont de Nemours and Company purchased a majority of the capital stock of the said Fairmont Powder Company in furtherance of the conspiracy and combination herein described and for the sole purpose of eliminating said company as a competitor in the shipment and sale of blasting powder among the various States with the said E. I. du Pont de Nemours and Company and the other parties to said pool agreement; and your petitioner further alleges that the mills of the said Fairmont Powder Company, constructed as aforesaid, were immediately, after said capital stock had been acquired by said E. I. du Pont de Nemours and Company as aforesaid, closed down, in furtherance of said combination and conspiracy, and have not since been operated.

That in furtherance of said combination and conspiracy and in order to eliminate the said Indiana Powder Company as a competitor in the shipment and sale of blasting powder among the various States, the members of the said pool agreement hereinbefore described determined to inaugurate and carry on against the said Indiana Powder Company a fierce and ruinous competitive warfare, and for that purpose in the year 1898, the exact time being to your petitioner unknown, did appoint Eugene du Pont, who was at that time a member of the copartnership E. I. du Pont de Nemours & Co., and one F. W. Olin, hereinbefore referred to, to cooperate with the Eastern Dynamite Company, represented by Hamilton M. Barksdale, one of the defendants herein, and vest in them authority to devise, institute, and carry out a plan for the elimination of the said Indiana Powder Company as a competitive factor in the said trade and commerce; that thereafter in the same year the said representatives, appointed as aforesaid, caused to be organized under the laws of the State of Indiana a corporation known as the Great Northern Manufacturing and Supply Company, through the instrumentality of which such fierce and ruinous competitive warfare was to be carried on and conducted against the said Indiana Powder Company; that at the time of the organization of the said Indiana Powder Company and the said Great Northern Manufacturing and Supply Company, and for many years thereafter, it was customary for the operators of the coal mines of Indiana and Illinois and other adjacent States to purchase all the blasting powder required for use in operating the mines owned and worked by them and to in turn sell such blasting powder by contract at a stipulated price to the miners in their employ, such contracts providing that the miners should buy their blasting powder from the operators of such mines at a fixed price of one dollar and seventy-five cents ($1.75) per keg; that the said Great Northern Manufacturing and Supply Company, organized for the purposes and objects aforesaid, did, in the year 1898, at the instance of the representatives, appointed as aforesaid, acting as agents of the members of said "Pool agreement of 1896," establish magazines or storehouses for blasting powder at or near the coal mines in those districts in the State of Indiana commonly known and described as the Terre Haute, Brazil, and Linton districts, and thereupon put into operation a line of wagons from which said wagons blasting powder was retailed to all miners who would buy the same at the price of one dollar and twenty-five cents ($1.25) per keg, and at the same time the said Great Northern Manufacturing and Supply Company and its officers and agents did from time to time in the transaction of said business falsely represent and pretend to said miners and the general public that it was an independent company and in no manner connected with or a party to the "Pool agreement of 1896," all of which was done for the purpose of eliminating and destroying the said Indiana Powder Company as a competitive factor in the trade and commerce in the shipment and sale of blasting powder among the States.

And your petitioner further alleges that each and all of the members of said pool agreement in order to conduct said fierce and competitive warfare through the instrumentality of the said Great Northern Manufacturing and Supply Company, as aforesaid, did furnish from time to time in proportion to their percentages in said "Pool agreement of 1896," as hereinbefore set forth, the funds and moneys necessary to carry on and conduct said competitive warfare through the said Great Northern Manufacturing and Supply Company.

That the mills of the Northwestern Powder Company, constructed and located as aforesaid, were in the same district in which the said Great Northern Manufacturing and Supply Company was carrying on and conducting the aforesaid fierce and ruinous competitive warfare against the said Indiana Powder Company, and that as a result of the said fierce competition the said Northwestern Powder Company suffered great and irreparable injury in its trade and commerce in the shipment and sale of blasting powder in the same manner as did the said Indiana Powder Company in its said trade and commerce, as aforesaid; that as an ultimate result of said ruinous competitive warfare carried on and conducted by the said Great Northern Manufacturing and Supply Company, as aforesaid, the stockholders of the said Indiana Powder Company and the stockholders of the said Northwestern Powder Company were compelled to and did in the month of March, 1902, sell and dispose of a majority of the capital stocks of the said two companies to the various corporations which were at that time members of said pool agreement and parties to the unlawful combination and conspiracy hereinbefore described, whereby the said Indiana Powder Company and the said Northwestern Powder Company, and each of them, were effectively and absolutely eliminated as competitive factors in the trade and commerce in the shipment and sale of blasting powder among the various States which up to that time they, and each of them, had carried on in competition with the various parties to said pool agreement.

That some time during the year 1902, as a result of a fierce and ruinous competitive warfare, which had for some time been carried on by the members of said pool agreement against the Birmingham Powder Company, the owners of the capital stock of said company were forced to and did sell a majority of the capital stock of the said Birmingham Powder Company to E. I. du Pont de Nemours and Company, the Laflin & Rand Powder Company, the Austin Powder Company of Cleveland, The American Powder Mills, The Miami Powder Company, and The Equitable Powder Manufacturing Company, and said companies acquired said capital stock and afterwards held the same in the proportion of the percentages of sales which each of said companies were allowed to make under said "Pool agreement of 1896."

And your petitioner further alleges that said companies mentioned in the preceding paragraph purchased and acquired a majority of the capital stock of the said Birmingham Powder Company in the proportion alleged, for the purpose of suppressing competition, and for the sole object of eliminating the said Birmingham Powder Company as a competitive factor in the shipment and sale of blasting powder among the various States and Territories of the United States, and that ever since the time of the acquirement and purchase of said capital stock, as aforesaid, the said Birmingham Powder Company has not competed in the trade and commerce of the United States in the shipment and sale of blasting powder.

IX.

OPERATIONS OF THE COMBINATION AND CONSPIRACY DURING THE EARLY PART OF THE SIXTH PERIOD THROUGH THE INSTRUMENTALITY OF E. I. DU PONT DE NEMOURS AND COMPANY.

Your petitioner alleges that in the month of February, 1902, the following-named individual defendants, to wit, Alexis I. du Pont, Alfred I. du Pont, Henry A. du Pont, Pierre S. du Pont, and Thomas Coleman du Pont, and their associates organized under the laws of Delaware that certain corporation known as E. I. du Pont de Nemours Company (the name of this company was, on May 10, 1902, changed to E. I. du Pont de Nemours and Company), with an authorized capital stock of twenty million ($20,000,000) dollars, which said corporation was organized, as aforesaid, for the purpose of acquiring the capital stock, or a majority thereof, and thereby the control of E. I. du Pont de Nemours and Company, which had theretofore, in the year 1899, been organized under the laws of Delaware, as aforesaid; that thereafter said individual defendants and their associates did transfer and cause to be transferred and conveyed a majority of the capital stock of the said E. I. du Pont de Nemours and Company, organized in the year 1899, to the said E. I. du Pont de Nemours and Company, organized in the month of February, 1902, as aforesaid, and immediately thereafter caused the corporate existence of the said E. I. du Pont de Nemours and Company organized as aforesaid in 1899 to be dissolved; that at the time of the organization of the said E. I. du Pont de Nemours Company in February, 1902, as aforesaid, twelve million three hundred thousand ($12,300,000) dollars of its capital stock was issued to said individual defendants, and others to your petitioner unknown; and your petitioner alleges that ever since the organization of said corporation and the issuance of the said twelve million three hundred thousand ($12,300,000) dollars of its capital stock to the said individuals, as aforesaid, a majority of such capital stock has been held by and has been continually under the control of said individual defendants and now is under their control, and that the said E. I. du Pont de Nemours and Company, has ever since the month of February, 1902, been and now is operated, dominated, and controlled by said individual defendant stockholders and used by them during all of the times hereinafter mentioned as an instrumentality and a device for effecting the objects and purposes of the combination and conspiracy herein charged and in furtherance thereof, as hereinafter more specifically alleged.

And your petitioner further alleges that after the E. I. du Pont de Nemours Company (the name of which was subsequently changed, as aforesaid), had succeeded to the business of E. I. du Pont de Nemours and Company, as aforesaid, about eighty-five (85) per cent of the gunpowder and other high explosives shipped and sold to the trade among the various States and Territories of the United States was manufactured and so shipped and sold by the said E. I. du Pont de Nemours and Company, the said Laflin & Rand Powder Company, and the various corporations named in the first column of Exhibit A, which is hereto attached and hereby made a part of this petition; that at that time the said E. I. du Pont de Nemours and Company, the said Hazard Powder Company, the said Laflin & Rand Powder Company, and the said Eastern Dynamite Company, respectively, owned and controlled the capital stocks of the various corporations mentioned in the first column of said Exhibit A in the amount as indicated in the third, fourth, fifth, and sixth columns of said Exhibit A; and your petitioner charges that at said time, to wit, in the early part of the year 1902, E. I. du Pont de Nemours and Company, The Hazard Powder Company, the Laflin & Rand Powder Company, and the Eastern Dynamite Company, each of which said companies were at that time members of the combination and conspiracy in restraint of trade and commerce as in this petition alleged, did, through such stock ownership and by concerted action and agreements among themselves, dominate and control each and all of said corporations mentioned in the first column of said Exhibit A, and did from time to time fix the price and prices at which gunpowder and other high explosives produced by said corporations should be shipped and sold by them and each of them among the various States and Territories of the United States, and that all competition between said corporations and each of them and the four corporations in this paragraph specifically named and each of them was thereby completely stifled and eliminated.

That in order to further suppress and eliminate such competition and to monopolize such trade and commerce the said E. I. du Pont de Nemours and Company, the said Hazard Powder Company, the said Laflin & Rand Powder Company, and the said Eastern Dynamite Company, and their officers and agents, devised a scheme in furtherance of said combination and conspiracy in restraint of trade and commerce whereby it was proposed to centralize and unify in one controlling and dominating corporation the various capital stocks so held and controlled by such corporations and each of them as shown in said Exhibit A; and your petitioner charges that thereafter, during the years 1902 and 1903, the following acts were done and performed by the said four corporations and their officers and agents, and the individual defendants above named, for the purpose of effectuating and carrying out the plan and scheme aforesaid:

That the said E. I. du Pont de Nemours and Company in the early part of the year 1902 owned the entire capital stock of the said Hazard Powder Company, and did by virtue of such ownership of such capital stock own and control the said Hazard Powder Company and the various capital stocks which the said Hazard Powder Company owned in

the several corporations as indicated and shown in the fourth column of said Exhibit A.

That thereafter, to wit, on the 1st day of October, 1902, the said E. I. du Pont de Nemours and Company, and the said Laflin & Rand Powder Company, and their officers and agents, in furtherance of said scheme, organized and caused to be organized under the laws of the State of Delaware a corporation known as the Delaware Securities Company, with a capital stock of four million ($4,000,000) dollars, divided into forty thousand (40,000) shares of the par value of one hundred ($100) dollars each, and thereupon caused the said Delaware Securities Company to issue its bonds for three million nine hundred and eighty-eight thousand four hundred ($3,988,400) dollars, and caused said bonds and a part of the said capital stock, the exact amount of such capital stock being to your petitioner unknown, to be exchanged for substantially all of the capital stock of the said Laflin & Rand Powder Company, whereby there was conveyed to the said Delaware Securities Company the absolute control of all the properties, both real and personal, of the said Laflin & Rand Powder Company, together with the control of the capital stocks in the various corporations then owned by the said Laflin & Rand Powder Company as shown in the fifth column of said Exhibit A; and your petitioner alleges that at the time of the formation of the said Delaware Securities Company, on the 1st day of October, 1902, as aforesaid, the said E. I. du Pont de Nemours and Company acquired twenty-eight thousand four hundred and seventy-two (28,472) shares, which was more than a majority of the capital stock of the Delaware Securities Company; wherefor your petitioner charges that at said time, to wit, in the month of October, 1902, the said E. I. du Pont de Nemours and Company acquired through the stock holdings in the said Delaware Securities Company the control of the said Laflin & Rand Powder Company, and through the said last-named company control of the various stocks which the said Laflin & Rand Powder Company owned in the various corporations as indicated in the fifth column of said Exhibit A.

And your petitioner further alleges that in the month of October, 1902, and for many years prior thereto, the said Hazard Powder Company and the said Laflin & Rand Powder Company together owned a majority of the capital stock of the said Eastern Dynamite Company, as shown by Exhibit A; and that thereafter the said E. I. du Pont de Nemours and Company by reason of its control of the said Hazard Powder Company and the said Laflin & Rand Powder Company, as aforesaid, did through said companies absolutely control and dominate the said Eastern Dynamite Company; wherefor your petitioner charges that in the month of October, 1902, and ever since said time, the said E. I. du Pont de Nemours and Company, by virtue of its control of the said Hazard Powder Company, the said Laflin & Rand Powder Company, and the said Eastern Dynamite Company, has controlled and dominated not only each of said companies, but all of the other corporations specifically named in the first column of said Exhibit A.

ACTS OF E. I. DU PONT DE NEMOURS AND COMPANY AND THE VARIOUS CORPORATIONS WHICH IT CONTROLLED BETWEEN THE 1ST DAY OF OCTOBER, 1902, AND THE 1ST DAY OF AUGUST, 1903, IN FURTHERANCE OF SAID CONSPIRACY.

That for several years prior to the month of August, 1903, The Consumers' Powder Company and The Enterprise Powder Manufacturing Company, each with powder mills located at or near Scranton, Pa., and The Oliver Powder Company, with powder mills located at Oliver Mills, Pa., had been engaged in the manufacture of blasting powder at their respective mills and shipping and selling the same among various of the States and Territories of the United States in active competition with E. I. du Pont de Nemours and Company and the various subsidiary companies owned and controlled by said company as aforesaid; that in order to suppress and eliminate such competition in said trade and commerce a scheme was devised by the said E. I. du Pont de Nemours and Company, its officers and stockholders, some time in the fall of 1902, whereby it was proposed that the said E. I. du Pont de Nemours and Company should obtain control of the said Consumers' Powder Company, the said Enterprise Powder Manufacturing Company, and the said Oliver Powder Company, by merging said companies into E. I. du Pont de Nemours and Company of Pennsylvania, the entire capital stock of which said last-named company was then and there owned by E. I. du Pont de Nemours and Company, and thereby eliminate each of said three companies as competitive factors in such trade and commerce, which said scheme was effected in the following manner, to wit:

On the 1st day of October, 1902, the said E. I. du Pont de Nemours and Company, its officers and agents, and its individual defendant stockholders hereinbefore named, organized under the laws of the State of Delaware a corporation known as the Delaware Investment Company, with a capital stock of two million five hundred thousand ($2,500,000) dollars, and caused to be issued to the said E. I. du Pont de Nemours and Company one million seven hundred and fifty-three thousand three hundred ($1,753,300) dollars of such capital stock, whereby the said E. I. du Pont de Nemours and Company has ever since said time through and by means of such stock ownership controlled the said Delaware Investment Company; that in the said month of October, 1902, the said E. I. du Pont de Nemours and Company caused the said Delaware Investment Company to issue its bonds for two million five hundred thousand ($2,500,000) dollars and to exchange the same for nine hundred and fifty (950) shares of the capital stock of The Moosic Powder Company, a corporation organized under the laws of Pennsylvania; that the total number of shares of capital stock of the said Moosic Powder Company issued and outstanding was three thousand (3,000), of which the said Laflin & Rand Powder Company owned one thousand five hundred and thirty (1,530) shares, as appears in said Exhibit A; and your petitioner charges that thereupon and thereafter the said E. I. du Pont de Nemours and Company by virtue of its control of the said Delaware Investment Company and the said Laflin and Rand Powder Company controlled two thousand four hundred and eighty (2,480) shares out of a total issue of three thousand (3,000) shares, or eighty-two and two-thirds (82⅔) per cent of the entire issue of the capital stock of the said Moosic Powder Company.

That thereafter, on the 1st day of August, 1903, the said E. I. du Pont de Nemours and Company and its officers and agents, and said individual stockholders, caused the capital stock of the said E. I. du Pont de Nemours and Company of Pennsylvania, to be increased from twenty thousand ($20,000) dollars to two million ($2,000,000) dollars in order that said company might exchange its capital stocks for the assets, both real and personal, of the said Moosic Powder Company, the said Consumers' Powder Company, the said Enterprise Powder Manufacturing Company, and the said Oliver Powder Company, and thereby merge said companies into the said E. I. du Pont de Nemours and Company of Pennsylvania.

That thereafter the said E. I. du Pont de Nemours and Company and its officers and agents, acting through the said E. I. du Pont de Nemours and Company of Pennsylvania, effected and brought about such merger in the following manner, to wit: They caused three hundred and ninety-three thousand eight hundred and thirty-five ($393,835) dollars of the capital stock of E. I. du Pont de Nemours and Company of Pennsylvania, both common and preferred, to be exchanged for the entire assets of the said Consumers' Powder Company; one hundred and twenty-eight thousand and eight ($128,008) dollars of the capital stock of the said E. I. du Pont de Nemours and Company of Pennsylvania, to be exchanged for the entire assets of the said Enterprise Powder Manufacturing Company; and one hundred and ninety thousand two hundred and twenty-two ($190,222) dollars of the capital stock of the said E. I. du Pont de Nemours and Company of Pennsylvania, to be exchanged for the entire assets of the said Oliver Powder Company; and your petitioner alleges that at the same time the said E. I. du Pont de Nemours and Company caused the said E. I. du Pont de Nemours and Company of Pennsylvania, in furtherance of said scheme, to exchange eight hundred and eighty-nine thousand four hundred and fifty-nine ($889,459) dollars of its capital stock for the entire assets of the said Moosic Powder Company; and at the same time did cause the said E. I. du Pont de Nemours and Company of Pennsylvania to cancel the twenty thousand ($20,000) dollars of its capital stock owned by E. I. du Pont de Nemours and Company before the capital stock of the Pennsylvania company had been increased as aforesaid, and to issue in lieu thereof to the said E. I. du Pont de Nemours and Company three hundred and ninety-eight thousand four hundred and seventy-six ($398,476) dollars of the capital stock of the said Pennsylvania company after its stock had been increased as aforesaid; that the said E. I. du Pont de Nemours and Company controlled eighty-two and two-thirds (82⅔) per cent of the eight hundred and eighty-nine thousand four hundred and fifty-nine ($889,459) dollars of the capital stock which the said Moosic Powder Company obtained from the said E. I. du Pont de Nemours and Company of Pennsylvania, as aforesaid, or seven hundred and thirty-five thousand two hundred and eighty-six ($735,286) dollars of the capital stock of the said Pennsylvania corporation, which said amount, together with the three hundred and ninety-eight thousand four hundred and seventy-six ($398,476) dollars of the capital stock of the said Pennsylvania corporation obtained by the said E. I. du Pont de Nemours and Company, as aforesaid, gave to the said last-named company control of the majority of the capital stock of the said Pennsylvania corporation. Your petitioner therefore charges that the said E. I. du Pont de Nemours and Company in the manner aforesaid obtained control of one million one hundred and thirty-three thousand seven hundred and sixty-two ($1,133,762) dollars of the total capital stock of the said E. I. du Pont de Nemours and Company of Pennsylvania, and thereby the control of said corporation and all the various properties which it took over as aforesaid.

That for several years prior to the month of April, 1903, the Cambria Powder Company (of Pennsylvania) with a powder mill located at or near Seward, Pa., had been engaged in manufacturing blasting powder at said powder mill and shipping and selling the same among the various States and Territories of the United States in active competition with the said E. I. du Pont de Nemours and Company, and the various subsidiary companies owned and controlled by said company, as aforesaid; that in furtherance of said combination and conspiracy and in order to suppress and eliminate the said Cambria Powder Company as a competitive factor in such trade and commerce, a scheme was devised by the said E. I. du Pont de Nemours and Company, its officers, stockholders, and agents to obtain control of the said Cambria Powder Company, which said scheme was effected and carried out in the following manner, to wit:

In the month of April, 1903, the said E. I. du Pont de Nemours and Company and its officers and agents organized under the laws of the State of Pennsylvania the Conemaugh Powder Company, with a capital stock of eighty thousand ($80,000) dollars, divided into eight hundred (800) shares of the par value of one hundred ($100) dollars each; that thereafter the said E. I. du Pont de Nemours and Company and its officers and agents did cause the said Conemaugh Powder Company to issue its bonds for thirty-five thousand ($35,000) dollars and thereupon to exchange said bonds together with two hundred (200) shares of the capital stock of the said Conemaugh Powder Company for five hundred (500) shares out of a total issue of six hundred and nineteen (619) shares of the capital stock of the said Cambria Powder Company, thereby vesting in the said Conemaugh Powder Company control of the said Cambria Powder Company; that at the same time the said E. I. du Pont de Nemours and Company, its officers and agents, did cause the said Conemaugh Powder Company to issue and convey to the said E. I. du Pont de Nemours and Company six hundred (600) shares of the capital stock of the said Conemaugh Powder Company, thereby giving to the said E. I. du Pont de Nemours and Company the control of the said Conemaugh Powder Company, and through said last-named company the control of the said Cambria Powder Company, as aforesaid; and your petitioner charges that ever since the month of April, 1903, all competition in the shipment and sale of blasting powder and other high explosives among the various States and Territories of the United States between the said Cambria Powder Company and the said E. I. du Pont de Nemours and Company, and its subsidiary companies, has been suppressed and eliminated in the manner aforesaid, and the monopoly in this petition alleged in said trade and commerce was thereby made more complete and effectual; and your petitioner further charges that the said Conemaugh Powder Company has ever since said time been and now is a party to the combination and conspiracy herein charged, the said Cambria Powder Company having been subsequently dissolved by the action of its board of directors and all the assets of the company taken over by the said Conemaugh Powder Company, since which time the business formerly conducted by the said Cambria Powder Company has been conducted and carried on by the said Conemaugh Powder Company under the control of the said E. I. du Pont de Nemours and Company, until such control was conveyed to a New Jersey holding company, as hereinafter specifically alleged.

That thereafter, to wit, in the month of May, 1903, the said E. I. du Pont de Nemours and Company and its officers, agents, and stockholders, aforesaid, organized under the laws of the State of Delaware a certain other corporation known as the E. I. du Pont Company, with a capital stock of ten thousand ($10,000) dollars, and thereupon the said E. I. du Pont de Nemours and Company sold and conveyed to the said E. I. du Pont Company, for and in consideration of the said ten thousand ($10,000) dollars of its capital stock, all of its unsold finished products and raw materials and everything necessary to the operation of its said business in the manufacture and the shipment and sale of gunpowder and other high explosives, and thereupon the said E. I. du Pont Company became the successor in interest

to all the properties, both real and personal, of the said E. I. du Pont de Nemours and Company with the exception of the capital stocks owned by the said E. I. du Pont de Nemours and Company, which capital stocks were not sold and conveyed; and your petitioner alleges that the said E. I. du Pont de Nemours and Company from the month of May, 1903, and until said company subsequently, to wit, on the 1st day of August, 1903, exchanged such capital stocks in its subsidiary companies for a controlling interest in the E. I. du Pont de Nemours Powder Company (of New Jersey), as hereinafter more particularly alleged, continued in existence for the sole purpose of controlling such subsidiary corporations in furtherance of the combination and conspiracy herein alleged.

That all of said acts, transactions, and things were done and performed by the said E. I. du Pont de Nemours and Company and its officers and agents and its individual stockholders herein named, and in the manner herein described, in furtherance of said combination and conspiracy in restraint of the said trade and commerce among the various States of the Union, and for the purpose of suppressing and eliminating all competition in such trade and commerce and in order to monopolize and to attempt to monopolize the same.

X.

ORGANIZATION OF THE NEW JERSEY HOLDING COMPANY AND OPERATIONS OF THE COMBINATION AND CONSPIRACY THEREUNDER DURING THE REMAINING YEARS OF THE SIXTH PERIOD.

Your petitioner alleges that as a part of the said scheme and in furtherance of the combination and conspiracy herein charged the said E. I. du Pont de Nemours and Company, and its officers and agents, did on or about the 19th day of May, 1903, organize and cause to be organized, under the laws of the State of New Jersey, that certain other corporation, known as the E. I. du Pont de Nemours Powder Company, with an authorized capital stock of fifty million ($50,000,000) dollars, divided into two hundred and fifty thousand (250,000) shares of preferred and two hundred and fifty thousand (250,000) shares of common capital stock of the par value of one hundred ($100) dollars each; that one of the purposes for which the said E. I. du Pont de Nemours Powder Company was organized, as aforesaid, was to acquire, take over, and hold the capital stocks of all of the various corporations which were at that time dominated by, under the control of, and owned by the said E. I. du Pont de Nemours and Company, as hereinbefore alleged.

That thereafter, to wit, on the 1st day of August, 1903, the said E. I. du Pont de Nemours and Company, its officers and agents, and the individual defendants herein named did transfer and cause to be transferred to the said E. I. du Pont de Nemours Powder Company (of New Jersey), all of the capital stocks of all of the various corporations which the said E. I. du Pont de Nemours and Company (of Delaware) at that time controlled and owned, as hereinbefore charged, and that in return therefor and in consideration thereof the said Delaware corporation received from the said New Jersey corporation thirty million two hundred thousand ($30,200,000) dollars of the capital stock of the said New Jersey corporation, thereby giving to the said Delaware corporation the absolute control of the said New Jersey corporation; wherefore your petitioner charges that thereafter the said Delaware corporation dominated and controlled, through and by means of the instrumentality of the said New Jersey corporation, all of the various corporations hereinbefore specifically named which it had theretofore controlled, as hereinbefore alleged, just as effectually and completely as it had controlled them prior to the organization of the said New Jersey corporation.

THE VARIOUS ACTS OF THE E. I. DU PONT DE NEMOURS POWDER COMPANY (OF NEW JERSEY) IN FURTHERANCE OF THE COMBINATION AND CONSPIRACY.

That since the 1st day of August, 1903, the said E. I. du Pont de Nemours and Company, its officers and agents and the individual defendants named herein, from time to time, through the instrumentality of the said New Jersey corporation and otherwise, have done and performed in furtherance of said unlawful combination and conspiracy the acts and things hereinafter specifically set forth.

1. That on the 7th day of April, 1903, E. I. du Pont de Nemours and Company and its officers and agents organized and caused to be organized under the laws of the State of Delaware that certain corporation known as the California Investment Company, with a capital stock of one hundred thousand ($100,000) dollars (afterwards on a date unknown to your petitioner, increased to four hundred thousand ($400,000) dollars), for the express purpose of acquiring the control of that corporation known as the Judson Dynamite and Powder Company of California, a corporation of California, which said last-named corporation at that time was and for a long time prior thereto had been engaged in manufacturing blasting powder and other high explosives at its plant near the city of San Francisco, Cal., and shipping and selling the same among the various States and Territories of the United States in competition with the said E. I. du Pont de Nemours and Company and the various members of the combination and conspiracy herein charged.

That thereafter, to wit, in the month of August, 1903, the said E. I. du Pont de Nemours and Company and its officers and agents did cause the said California Investment Company, organized as aforesaid, to issue its bonds for an amount to your petitioner unknown, and to exchange the same for practically all of the capital stock of the said Judson Dynamite and Powder Company of California, whereby the said last-named company and its business operations passed to the control of the said California Investment Company; that at or about the same time the said E. I. du Pont de Nemours and Company, and its officers and agents, who had organized the California Investment Company as aforesaid, caused the said last-named company to issue its capital stock to the extent of one hundred thousand ($100,000) dollars, and to sell and transfer practically all of the same to the E. I. du Pont de Nemours Powder Company (of New Jersey). Wherefore your petitioner alleges that the said Judson Dynamite and Powder Company of California has been ever since the month of August, 1903, dominated and controlled by the said E. I. du Pont de Nemours and Company, through the instrumentality of the said New Jersey corporation, which is the owner and holder of practically all of the capital stock of the said California Investment Company as aforesaid; and your petitioner further charges that the said Judson Dynamite and Powder Company of California has been ever since the month of August, 1903, a party to the combination and conspiracy herein charged, and that all competition between said company and the various parties to the said combination and conspiracy has been effectually suppressed and eliminated.

And your petitioner further alleges that all the foregoing acts and things relative to obtaining the control of the said Judson Dynamite and Powder Company of California were done and performed as herein alleged in furtherance of said combination and conspiracy in restraint of trade, and with the intent and purpose on the part of the various defendants herein to monopolize and attempt to monopolize the same.

2. That for many years prior to the 7th day of December, 1903, The American E. C. & Schultze Gunpowder Company, Limited (a corporation of Great Britain and Ireland), maintained and operated a powder factory at Oakland, in the State of New Jersey, at which gunpowder and other high explosives were manufactured and produced in large quantities, and shipped and sold said gunpowder and other high explosives during said years in the State of New Jersey and among the other States and Territories of the United States in active competition with the said E. I. du Pont de Nemours and Company and its subsidiary companies, which were parties to the combination and conspiracy herein charged; that in order to eliminate the said American E. C. & Schultze Gunpowder Company, Limited, as a competitive factor in the shipment and sale of gunpowder and other high explosives among the various States, and for the purpose of suppressing such competition in said trade and commerce as had up to that time existed, as aforesaid, and in furtherance of said combination and conspiracy, the said E. I. du Pont de Nemours and Company, its officers and agents and the individual defendants herein named, did, through the instrumentality of the said New Jersey holding corporation, cause the said E. I. du Pont Company, on or about the 9th day of November, 1903, to make and enter into a certain lease and agreement in writing whereby the operation and control of the said American E. C. & Schultze Gunpowder Company, Limited, was transferred and leased for a period of ninety-nine (99) years from June 1, 1903, to the said E. I. du Pont Company; that ever since said time the plant and business of the said American E. C. & Schultze Gunpowder Company, Limited, has been operated by the said E. I. du Pont Company, or its successor, which said last-named company has ever since December 7, 1903, been under the absolute control and domination of the said E. I. du Pont de Nemours and Company, through and by means of the instrumentality as hereinbefore alleged of the New Jersey holding company. Wherefore your petitioner charges that ever since the making of said agreement, as aforesaid, and at the time of the filing of this petition all competition in the shipment and sale of gunpowder and other high explosives among the various States of the United States by the said American E. C. & Schultze Gunpowder Company, Limited, with the various corporations parties to said combination and conspiracy as herein alleged, has been and is still suppressed and eliminated, whereby the monopoly herein charged in said trade and commerce has been made more complete and effectual; and your petitioner further charges that the said American E. C. & Schultze Gunpowder Company, Limited, has ever since the making of said agreement been and now is a party to the combination and conspiracy in restraint of trade and commerce herein charged.

3. That for many years prior to the month of August, 1903, the Metropolitan Powder Company (a corporation of California) maintained and operated a powder factory at West Berkeley, in the State of California, at which blasting powder and other high explosives were manufactured and produced in large quantities and shipped and sold said blasting powder and other high explosives during said years in the State of California and among other States and Territories of the United States in active competition with the said E. I. du Pont de Nemours and Company and the several subsidiary corporations controlled by it as hereinbefore alleged which were parties to the combination and conspiracy herein alleged; that in order to eliminate the said Metropolitan Powder Company as a competitive factor in the shipment and sale of blasting powder and other high explosives among the various States, and for the purpose of suppressing such competition in said trade and commerce as had up to that time existed as aforesaid between said Metropolitan Powder Company and the various members of the combination and conspiracy herein charged, and in furtherance of said combination and conspiracy, the said E. I. du Pont de Nemours Powder Company (of New Jersey), in the month of September, 1903, issued two hundred and forty-six thousand nine hundred ($246,900) dollars of its capital stock and exchanged the same for the entire capital stock of the said Metropolitan Powder Company, whereby the operation and control of the said Metropolitan Powder Company was transferred to the said E. I. du Pont de Nemours Powder Company (of New Jersey); that ever since the said month of September, 1903, the said Metropolitan Powder Company has been controlled by the said E. I. du Pont de Nemours and Company through the instrumentality of the said E. I. du Pont de Nemours Powder Company (of New Jersey). And your petitioner charges that ever since said time all competition in the shipment and sale of blasting powder and other high explosives among the various States of the United States by the said Metropolitan Powder Company with the various corporations parties to the said combination and conspiracy, as herein charged, has been suppressed and eliminated, and that said monopoly in said trade and commerce has been made more complete and effectual; and your petitioner further charges that the said Metropolitan Powder Company has ever since the time of the exchange and transfer of its capital stock as aforesaid, been, and now is, a party to the combination and conspiracy in restraint of trade and commerce herein charged.

4. That for many years prior to the month of October, 1903, the California Powder Works maintained and operated a powder factory at Berkeley, in the State of California, at which gunpowder and other high explosives were manufactured and produced in large quantities, and sold and shipped said gunpowder and other high explosives during said years in the State of California and among other States and Territories of the United States in active competition with the said E. I. du Pont de Nemours and Company and its several subsidiary companies, all parties to the combination and conspiracy herein alleged; that ever since the year 1877 the said E. I. du Pont de Nemours and Company or its predecessors had as hereinbefore alleged owned and controlled thirteen thousand (13,000) shares out of a total issue of thirty thousand (30,000) shares of the capital stock of the said California Powder Works, which said thirteen thousand (13,000) shares at the time of the organization of the said New Jersey holding corporation were transferred to said company, as hereinbefore alleged; that notwithstanding said ownership by the said New Jersey corporation of the said thirteen thousand (13,000) shares of the capital stock of the said California Powder Works, said last-named company continued more or less as a competitive factor in the trade and commerce in the shipment and sale of gunpowder and other high explosives with the said New Jersey corporation and the companies controlled by it as hereinbefore alleged; that in order to entirely suppress and eliminate such competition the board of directors of the

said New Jersey corporation on the 12th day of October, 1903, passed a resolution by which it was provided that the shares of capital stock of the said California Powder Works might be exchanged at a certain ratio named in said resolution for the shares of capital stock of the said New Jersey holding corporation; and your petitioner alleges that thereafter from time to time from the 12th day of October, 1903, to the date of the filing of this petition the various stockholders of the said California Powder Works have exchanged their capital stocks in said company for the capital stocks of the said New Jersey holding company in accordance with the ratio mentioned in said resolution until to-day the said New Jersey holding company owns and controls more than twenty-nine thousand (29,000) out of the total issue of thirty thousand (30,000) shares of the capital stock of the said California Powder Works. Wherefore your petitioner charges that all competition in the shipment and sale of gunpowder and other high explosives among the various States of the United States by the said California Powder Works with the various corporations parties to the said combination and conspiracy, as herein charged, has been suppressed and eliminated, and that said monopoly in said trade and commerce has been made more complete and effectual; and your petitioner further charges that the said California Powder Works has been for three years prior to the time of the filing of this petition and now is a party to the combination and conspiracy in restraint of trade and commerce herein charged.

5. That for many years prior to the 7th day of January, 1904, the California Vigorit Powder Company, a corporation of California, maintained and operated a powder factory at Hercules, in the State of California, at which blasting powder and other high explosives were manufactured and produced in large quantities, and shipped and sold said blasting powder and other high explosives during all said years in the State of California and among other States and Territories of the United States in active competition with the said E. I. du Pont de Nemours and Company and its several subsidiary corporations, all of which were parties to the combination and conspiracy herein alleged; that in order to eliminate the said California Vigorit Powder Company as a competitive factor in the shipment and sale of blasting powder and other high explosives among the various States and for the purpose of suppressing such competition in said trade and commerce as had up to that time existed, as aforesaid, and in furtherance of said combination and conspiracy, the board of directors of the said E. I. du Pont de Nemours Powder Company (of New Jersey) did, on the 7th day of January, 1904, pass a resolution by which it was provided that the shares of capital stock of the said California Vigorit Powder Company might be exchanged in a certain ratio, as provided in said resolution, for the shares of capital stock of the said E. I. du Pont de Nemours Powder Company (of New Jersey); that thereafter from time to time the individual stockholders of said California Vigorit Powder Company did exchange their stock in said company for stock in the said E. I. du Pont de Nemours Powder Company (of New Jersey) in accordance with said resolution, until finally, in the month of January, 1907, the said New Jersey holding company had acquired and then held more than sixty-six (66) per cent of the capital stock of the said California Vigorit Powder Company; and your petitioner further alleges that in said month of January, 1907, the said E. I. du Pont de Nemours Powder Company (of New Jersey) did by virtue of its control of the said California Vigorit Powder Company cause said last-named company to sell and convey its plant and properties, both real and personal, to the said E. I. du Pont Company, and did cause the corporate existence of the said California Vigorit Powder Company to be dissolved. And your petitioner charges that ever since the month of January, 1907, and for two years prior thereto, all competition in the shipment and sale of blasting powder and other high explosives among the various States of the United States by the said California Vigorit Powder Company with the various corporations parties to said combination and conspiracy, as herein charged, has been suppressed and eliminated and that said monopoly in said trade and commerce has been made more complete and effectual; and that all the acts and transactions herein alleged with reference to obtaining the control of the said California Vigorit Powder Company by the said New Jersey holding company were done and performed in furtherance of the combination and conspiracy herein described, and with intent on the part of the individual defendants herein named to monopolize and attempt to monopolize such trade and commerce.

That for many years prior to the year 1904 The Ohio Powder Company maintained and operated a powder factory near Youngstown, Ohio, at which blasting powder and other high explosives were manufactured and produced in large quantities, and shipped and sold said blasting powder and other high explosives during all of said years in Ohio and among other States and Territories of the United States in active competition with E. I. du Pont de Nemours and Company and its several subsidiary corporations, parties to the said combination and conspiracy herein alleged; that for several years prior to 1904 the said E. I. du Pont de Nemours and Company, and its predecessors, and the said Hazard Powder Company, and the said Laflin & Rand Powder Company had together owned and controlled five hundred and seventy (570) out of a total issue of fifteen hundred (1,500) shares of the capital stock of the said Ohio Powder Company, and which said five hundred and seventy (570) shares, or the control thereof, at the time of the organization of the said New Jersey holding company were transferred to said company as hereinbefore alleged; that notwithstanding the control of the said five hundred and seventy (570) shares by the said New Jersey holding corporation, as aforesaid, the said Ohio Powder Company continued up to the year 1904 as more or less of a competitive factor in the shipment and sale of blasting powder in such trade and commerce with the various corporations parties to the combination and conspiracy as herein alleged which at said time were controlled by the said New Jersey corporation; that in order to entirely suppress and eliminate such competition, the board of directors of the said New Jersey corporation on the 12th day of October, 1903, passed a resolution by which it was provided that the shares of capital stock of the said Ohio Powder Company might be exchanged at a certain ratio named in said resolution for shares of capital stock in the said New Jersey holding company; and your petitioners alleges that thereafter, to-wit, in the year 1904, the various stockholders of the said Ohio Powder Company exchanged their stocks in said company for stocks of the said New Jersey holding company at the ratio mentioned in said resolution, and that thereupon the said New Jersey holding company became the owner or obtained the control of the entire capital stock of the said Ohio Powder Company; that thereafter, to wit, on the 1st day of January, 1905, the said New Jersey holding company did cause the said Ohio Powder Company to sell and convey its entire plant and business to the said E. I. du Pont Company, and thereupon caused the corporate existence of the said Ohio Powder Company to be dissolved. Wherefore your petitioner charges that ever since the year 1904 all competition in the shipment and sale of blasting powder among the various States by the said Ohio Powder Company with the various corporations parties to said combination and conspiracy as herein charged has been suppressed and eliminated, and that said monopoly of said trade and commerce has been made more complete and effectual; and that all of the acts and transactions herein alleged with reference to obtaining control of the said Ohio Powder Company by the said New Jersey holding company, as aforesaid, were done and performed in furtherance of the combination and conspiracy herein described, and with the intent on the part of the individual and corporate defendants herein named to monopolize and atempt to monopolize such trade and commerce.

That for many years prior to the month of May, 1904, The Monarch Powder Company maintained and operated a powder factory at Union Furnace, Pa., at which blasting powder was manufactured and produced in large quantities, and sold and shipped said blasting powder during said years in the State of Pennsylvania, and from the State of Pennsylvania into other States and Territories of the United States in active competition with the said E. I. du Pont de Nemours & Company and its several subsidiary companies, all parties to the combination and conspiracy herein alleged; that for the purpose of eliminating the said Monarch Powder Company as a competitive factor in such trade and commerce the board of directors of the said New Jersey holding company on the 4th day of May, 1904, passed a resolution by which it was provided that the shares of capital stock of the said Monarch Powder Company might be exchange at a certain ratio named in said resolution for shares of capital stock in the said New Jersey holding company; and your petitioner alleges that thereafter and before the 19th day of January, 1905, the various stockholders of the said Monarch Powder Company exchanged their stocks in said company for stocks in the said New Jersey holding company at the ratio mentioned in said resolution; and that on said last mentioned date the said New Jersey holding company owned and controlled the entire capital stock, amounting to two hundred (200) shares of the said Monarch Powder Company; that a short time thereafter the said New Jersey holding company caused the said Monarch Powder Company to dismantle its manufacturing plant located as aforesaid, and to thereupon dissolve its corporate existence. Wherefore your petitioner charges that all competition in the shipment and sale of blasting powder among the various States by the said Monarch Powder Company with the various corporations, parties to the combination and conspiracy, as herein alleged, was effectually suppressed and eliminated, and that the acts and transactions herein alleged with reference to obtaining the control of the said Monarch Powder Company by the said New Jersey holding company, as aforesaid, were done and performed in furtherance of the combination and conspiracy herein described, and with the intent on the part of the individual and corporate defendants herein named, and each of them, to restrain such trade and commerce.

That for several years prior to the 1st day of December, 1903, the International Smokeless Powder and Chemical Company of New Jersey maintained and operated a powder factory at Parlin, in said State, at which smokeless ordnance powder was manufactured and produced in large quantities, and shipped and sold said smokeless ordnance powder during said years in said State and from said State in other States and Territories of the United States in active competition with E. I. du Pont Company (or its predecessors), and the Laflin & Rand Powder Company, the Hazard Powder Company, and the California Powder Works, each of which were parties to the combination and conspiracy herein alleged; that in order to eliminate the said International Smokeless Powder and Chemical Company as a competitive factor in the shipment and sale of smokeless ordnance powder among the various States of the United States and the District of Columbia, and for the purpose of suppressing such competition in said trade and commerce as had theretofore existed, as aforesaid, and in furtherance of said combination and conspiracy, E. I. du Pont de Nemours and Company, and its officers and agents, devised and carried out the following scheme and plan.

On the 1st day of December, 1903, E. I. du Pont de Nemours and Company, its officers and agents and the individual defendants herein named, organized under the laws of Delaware that certain other corporation known as the du Pont International Powder Company, with a total capital stock of ten million ($10,000,000) dollars, and caused said last-named company to thereafter issue its bonds in the amount of one million ($1,000,000) dollars, and thereupon did cause the said du Pont International Powder Company to exchange said bonds, together with a certain amount of its preferred capital stock and a certain amount of its common capital stock, the exact amounts being to your petitioner unknown, for ninety-three and eight-tenths (93.8) per cent of the preferred and eighty-four and four-tenths (84.4) per cent of the common capital stock of the said International Smokeless Powder and Chemical Company, whereby the control of the said last-named company was conveyed to the said du Pont International Powder Company; that thereafter, to wit, on the 17th day of November, 1904, the board of directors of the E. I. du Pont de Nemours Powder Company (of New Jersey) passed a resolution by which it was provided that the shares of capital stock of the said du Pont International Powder Company of Wilmington, Del., might be exchanged at a certain ratio named in said resolution for shares of capital stock in the said New Jersey holding company; and your petitioner alleges that thereafter and before the 8th day of June, 1906, the stockholders of the said du Pont International Powder Company exchanged eighty (80) per cent of their stocks in said company for stocks in the said New Jersey holding company at the ratio mentioned in said resolution; and that thereupon the said New Jersey holding company became the owner and obtained control of eighty (80) per cent of the capital stock of the said du Pont International Powder Company of Wilmington, Del., and through said last-named company the control of the said International Smokeless Powder and Chemical Company. Wherefore your petitioner charges that since said 8th day of June, 1906, all competition in the shipment and sale of smokeless ordnance powder among the various States by the said International Smokeless Powder and Chemical Company with the various corporations above named, parties to said combination and conspiracy, as herein charged, has been suppressed and eliminated and said monopoly in such trade and commerce has been made complete and effectual; and your petitioner further charges that the said International Smokeless Powder and Chemical Company and the said du Pont International Powder Company of Wilmington, and each of them, have been for more than one year, and now are, parties to the combination and conspiracy in restraint of the trade and commerce herein charged; and that all of said acts and transactions herein alleged with reference to obtaining the control of the said Interna-

tional Smokeless Powder and Chemical Company by the said New Jersey holding company, as aforesaid, were done and performed in furtherance of the combination and conspiracy herein described and with the intent on the part of the several corporate and individual defendants herein named to monopolize and to attempt to monopolize such trade and commerce.

THE PRACTICE OF DISSOLVING THE SUBSIDIARY CORPORATIONS.

Your petitioner alleges that ever since the organization of the E. I. du Pont de Nemours Powder Company (of New Jersey) as a holding corporation and its acquirement of the control of the various corporations as aforesaid, said company and its officers and agents, to wit, Thomas Coleman du Pont, Pierre S. du Pont, Irenee du Pont, Alexis I. du Pont, Victor du Pont, jr., Alfred I. du Pont, Eugene E. du Pont, Harry F. du Pont, Francis I. du Pont, Arthur J. Moxham, Jonathan A. Haskell, Henry F. Baldwin, Hamilton M. Barksdale, and Frank L. Connable, defendants herein, in furtherance of said combination and conspiracy in restraint of trade and commerce and in order to monopolize the same, have adopted and pursued the practice of dissolving or causing to be dissolved the various operating subsidiary corporations over which they have obtained or exercised control, as aforesaid, and of conveying the physical properties of the various corporations when so dissolved to one gigantic company, thereby establishing a monopoly in one corporation; that during the past four years, in pursuance of such practice, the said E. I. du Pont de Nemours Powder Company (of New Jersey), and the individual defendants herein named, have dissolved or caused to be dissolved the corporate existence of about seventy (70) such subsidiary operating corporations, and have caused the physical properties and assets of such corporations when so dissolved to be sold and conveyed to either the E. I. du Pont de Nemours Powder Company (of Delaware), the Laflin & Rand Powder Company, or the Eastern Dynamite Company, according to the character of the explosives which may have been manufactured by the corporation when so dissolved; that the plan pursued in perfecting and bringing about such dissolutions and consolidations was substantially as follows:

That whenever it seemed desirable to the said New Jersey holding company and its officers and board of directors to dissolve any particular corporation of which it had control, engaged in the manufacture and the shipment and sale of gunpowder or blasting powder among the several States as hereinbefore alleged, said New Jersey holding corporation, through its board of directors, did cause the necessary action to be taken by the board of directors of such subsidiary corporation for the sale and disposition of its property, both real and personal, and in each and every case did make such sale or cause such sale to be made to the E. I. du Pont Company—or its successor, the E. I. du Pont de Nemours Powder Company (of Delaware)—or the Laflin & Rand Powder Company, each of which said-last-named companies were during all of said time operating companies; that whenever it seemed desirable to the said New Jersey holding company and its officers and board of directors to dissolve any particular company of which it had control engaged in the manufacture and the shipment and sale of dynamite among the various States, as hereinbefore alleged, the said New Jersey holding company and its board of directors did cause the board of directors of such subsidiary company to sell and dispose of all its properties, both real and personal, to the Eastern Dynamite Company. Your petitioner is informed and believes and so charges that since the preparation of this petition, and on or about the —— day of July, A. D. 1907, the said E. I. Du Pont de Nemours Powder Co. (of Delaware) transferred a large part of its unsold finished products and raw materials and things necessary to the operation of its business, in the manufacture and the shipment and sale of gunpowder and other high explosives to the said E. I. du Pont de Nemours Powder Company (of New Jersey), and thereupon the said last-named company became an operating company, in addition to being a holding company. Wherefore your petitioner charges that during the past four years and at the time of the filing of this petition the manufacture and the shipment and sale of gunpowder and blasting powder among the various States has been and is being, by the action of the said New Jersey holding company and its officers and board of directors as aforesaid, gradually placed under the control of the said E. I. du Pont de Nemours Powder Company (of New Jersey), the said E. I. du Pont de Nemours Powder Company (of Delaware), and the said Laflin & Rand Powder Company, and that during said time the manufacture and the shipment and sale of dynamite among the various States has been and is being gradually placed under the control of the Eastern Dynamite Company; and your petitioner further charges that at the time of the filing of this petition the said E. I. du Pont de Nemours Powder Company (of New Jersey), the said E. I. du Pont de Nemours Powder Company (of Delaware) (the successor of the said E. I. du Pont Company), and the said Laflin & Rand Powder Company, the two last named of which are under the control of the said New Jersey company, as herein alleged, have obtained a monopoly of eighty-five (85) per cent of the business in the manufacture and the shipment and sale of gunpowder and blasting powder in and among the various States and Territories of the United States and the District of Columbia; and that the said Eastern Dynamite Company, at the time of the filing of this petition has obtained and now enjoys a practical monopoly in the manufacture and the shipment and sale of dynamite among the various States of the United States.

That all the acts, transactions, and doings herein charged as having been done during the past four years by the said New Jersey holding company were done and performed for the purpose of suppressing competition in said trade and commerce and with the intent to monopolize and in an attempt to monopolize the same, and that the said E. I. du Pont de Nemours and Company and its officers and agents during all of said time were parties to the various acts which were done and performed by the said New Jersey holding company, as herein alleged.

OPERATIONS AGAINST INDEPENDENT POWDER COMPANIES.

Your petitioner alleges that at the time of the filing of this petition, and for a long time prior thereto, there existed the following named corporations, each of which owned powder mills and were engaged in manufacturing blasting powder and other high explosives at such powder mills and shipping and selling the same to the trade among the various States and Territories of the United States in competition with one another and with the various corporations parties to said combination and conspiracy as aforesaid:

Ajax Dynamite Works, Bay City, Mich.
Allentown Non-Freezing Powder Company, near Allentown, Pa.
Buckeye Powder Company, near Peoria, Ill.
Burton Powder Company, Quaker Falls, Pa.
Cressona Powder Company, North Manheim, Pa.
The Eldred Powder Company, State Line Mills, Pa.
Emporium Powder Manufacturing Company, Emporium, Pa.
Excelsior Powder Manufacturing Company, Holmes Park, Mo.
The Rummel Chemical Company, near Toledo, Ohio.
Independent Powder Company of Missouri, near Joplin, Mo.
Jefferson Powder Company, Birmingham, Ala.
Keystone Powder Manufacturing Company, Emporium, Pa.
Locust Mountain Powder and Dynamite Company, Brandonville, Pa.
Lofty Powder Company, Lofty, Pa.
G. R. McAbee Powder and Oil Company, Tunnelton, Pa.
Masurite Explosives Company, Masury, Ohio.
The Nitro Powder Company, Kingston, N. Y.
Nuremburg Powder Company, Incorporated, Tomhicken, Pa.
D. C. Rand Powder Company, Pittsford, N. Y.
Rockdale Powder Company, Hoffmanville, Md.
Senior Powder Company, Morrow, Ohio.
Shenandoah Dynamite Company, Shenandoah, Pa.
Sinnamahoning Powder Manufacturing Company, Emporium, Pa.
Standard Powder Company, Horrell, Pa.
The Texas Dynamite Company, near Beaumont, Tex.
United States Powder Company, Coalmont, Ind.

That for the purpose of suppressing and eliminating said competition and with intent to force said independent corporations and each of them out of said trade and commerce, E. I. du Pont de Nemours and Company and its officers and agents, acting through and by means of the instrumentality of the said New Jersey holding company, which in turn acted through its various subsidiary corporations, have been during all of said time and now are conducting and carrying on against the said independent powder companies and each of them a fierce and ruinous competitive warfare in the shipment and sale of blasting powder and other high explosives among the various States and Territories of the United States; that in carrying on and conducting such fierce and ruinous competitive warfare, as aforesaid, the various parties to said combination and conspiracy herein charged have sold and caused to be sold from time to time, and are now selling, in the various localities in which said independent powder companies are located and into which they ship and sell their product, blasting powder and other high explosives at prices below the cost of production to themselves, while at the same time in other localities where said independent powder companies did not and do not compete and were not and are not able to compete the parties to said combination and conspiracy maintained the prices at which blasting powder and other high explosives were sold by them in such noncompetitive territory at figures very materially higher and at a great profit to themselves; and your petitioner charges that such fierce and ruinous competitive warfare against said independent corporations could not and would not have been conducted by the parties to said combination and conspiracy were it not for the fact that they were confederated and bound together in said combination and conspiracy and were thereby able to offset the losses which they sustained in such competitive territory against the great profits which they realized in the shipment and sale of their product in noncompetitive territory; that said independent powder companies during all of said time have manufactured at their various powder mills and shipped and sold to the trade among the various States of the Union about five (5) per cent of the total amount of blasting powder and other high explosives which has been shipped and sold and consumed among the various States and Territories of the United States.

And your petitioner further alleges that in carrying on and conducting said competitive warfare, as aforesaid, the various parties to said combination and conspiracy did from time to time hire and employ various persons and agents as detectives, who from time to time obtained information as to the names and locations of the customers of the said independent powder companies, and thereupon the agents and representatives of the parties to said combination and conspiracy did from time to time offer to sell to such customers of said independent powder companies such blasting powder and other high explosives at prices less than the cost of production to themselves; all of which your petitioner charges was done and is being done by the various parties to said combination and conspiracy and their representatives and agents for the sole purpose of forcing and compelling the said independent powder companies, and each of them, to abandon the business in which they are at present engaged, and thereby to secure to said combination and conspiracy and the various parties thereto a more complete monopoly of said trade and commerce in the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States.

THE UNDERSTANDING AND AGREEMENT FOR ELIMINATING THE COMPETITION OF THE ÆTNA POWDER COMPANY, THE MIAMI POWDER COMPANY, AND THE AMERICAN POWDER MILLS.

Your petitioner alleges that at the time of the filing of this petition and for several years prior thereto The Ætna Powder Company, of Indiana; The Miami Powder Company, of Xenia, Ohio, and The American Powder Mills, of Boston, Mass., and each of them, have been engaged in manufacturing gunpowder or other high explosives at their respective powder mills, and shipping and selling the same to the trade among the various States and Territories of the United States, and that said companies together have manufactured and so shipped and sold from year to year about ten (10) per cent of the total output of all of the powder factories of the United States; that at the time of the filing of this petition and for many years prior thereto, all competition between said powder companies and the various corporations parties to said combination and conspiracy has been suppressed and eliminated in the following manner, to wit:

That The Ætna Powder Company, in the year 1880, built a powder factory at or near Shererville, Ind., and for fifteen (15) years thereafter manufactured dynamite and other high explosives at said factory and shipped and sold the same among various States and Territories of the United States in active competition with the various parties to the combination and conspiracy herein charged; that for the purpose of eliminating the said Ætna Powder Company as a competitive factor in such trade and commerce, a contract in writing was made and entered into in the year 1895 between the said Ætna Powder Company and the Eastern Dynamite Company, one of the defendants herein, whereby it was mutually agreed that the said Ætna Powder Company should thereafter ship and sell its dynamite and other high explosives among the various States and Territories of the United States at prices which should from time to time thereafter be fixed by the said Eastern Dynamite Company; that said contract also contained other provisions for the maintenance of prices between the parties thereto, which were designed to and did thereafter suppress and eliminate all competition in the shipment and sale of dynamite

among the various States between the said Ætna Powder Company and the said Eastern Dynamite Company and the various corporations under the control of the said last-named company and parties to the combination and conspiracy herein charged; that said contract has, ever since the year 1895, been observed by the respective parties thereto. And your petitioner charges that the said Ætna Powder Company has been, ever since the year 1895, and now is a party to the combination and conspiracy herein charged.

That The Miami Powder Company, of Xenia, Ohio, ever since its organization, has been and now is a party to the combination and conspiracy in the shipment and sale of gunpowder and other high explosives among the various States and Territories of the United States, as hereinbefore alleged, and that The American Powder Mills, of Boston, Mass., ever since the year 1872, has been and now is a party to the said combination and conspiracy, as hereinbefore more particularly charged; that for many years last past the said Miami Powder Company and the said American Powder Mills have together manufactured about ten (10) per cent of all the gunpowder and other high explosives produced in the United States, and have shipped and sold the same among various of the States of the Union; that in the year 1902 the said Miami Powder Company and the said American Powder Mills, having been for many years parties to said unlawful combination and conspiracy, had secured certain recognized customers to whom said companies, and each of them, had for many years sold and disposed of their entire manufactured product, and, at the same time, the other parties to said combination and conspiracy had secured each for itself certain customers to whom they shipped and sold their entire product; and your petitioner charges that since the year 1902 there has existed and that there does now exist an understanding and agreement between the various parties to said combination and conspiracy on the one hand and the said Miami Powder Company and the said American Powder Mills on the other hand, whereby it is mutually understood and agreed that neither of the parties thereto will compete with the others, or any of them, for the trade and commerce in the shipment and sale of gunpowder and other high explosives enjoyed by said parties thereto, or any of them; that the practical operation of said understanding and agreement for the suppressing of competition between the said parties was and is as follows:

Whenever a recognized customer of the Miami Powder Company or the American Powder Mills seeks or attempts to purchase gunpowder or other high explosives from any one of the parties to said combination and conspiracy other than the Miami Powder Company or the American Powder Mills, such customer invariably receives a quotation of a price materially higher than that for which he is able to obtain the same grade of punpowder or other high explosives from the said Miami Powder Company or the said American Powder Mills, of which he is a recognized customer, as the case may be; and whenever a recognized customer of any one of the various corporations parties to said combination and conspiracy seeks or attempts to purchase gunpowder or other high explosives from either the Miami Powder Company or the American Powder Mills, such customer invariably receives a quotation at a price materially higher than that at which he is able to purchase the same grade of gunpowder or other high explosives from the corporations parties to said combination and conspiracy of which he is at the time a recognized customer.

Wherefore your petitioner charges that ever since the year 1902, and for many years prior thereto, all competition between the said Miami Powder Company and the said American Powder Mills and the various other corporations parties to said combination and conspiracy as herein alleged has been suppressed and eliminated, and that during all of said time the said Miami Powder Company and the said American Powder Mills, and each of them, have been and now are in the manner and to the extent herein alleged parties to said combination and conspiracy in restraint of such trade and commerce.

Your petitioner therefore charges that all of the business of the defendants in the shipment and sale of gunpowder and other high explosives among the States for many years has been and now is being conducted without any real competition amongst themselves and as a part of a general plan, agreement, combination, and conspiracy to restrain the trade and commerce of the United States in the shipment and sale of gunpowder and other high explosives and to monopolize the same, and that by means of such combination and conspiracy the various defendants herein have destroyed competition, driven out opponents, deterred others from entering such trade and commerce, and are now unreasonably hindering, restraining, and monopolizing interstate and foreign commerce and trade in the shipment and sale of gunpowder and other high explosives among the various States of the Union.

XI.

PRAYER.

(1) In consideration whereof and inasmuch as adequate remedy in the premises can only be obtained in equity, the United States of America prays your honors to order, adjudge, and decree that the combination and conspiracy hereinbefore described is unlawful and that all acts done or to be done in furtherance of the same are in derogation of the common rights of all the people of the United States and in violation of the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," and that the defendants, and each and every one of them, and their officers, directors, stockholders, agents, and servants, and each and every one of them, be perpetually enjoined and restrained from doing any act in pursuance of or for the purpose of carrying out the same.

(2) That this honorable court adjudge and decree that the individual defendants herein named, and each of them, have, in violation of the provisions of sections 1 and 2, respectively, of said act of Congress of July 2, 1890, entered into and are now parties to an agreement, combination, and conspiracy with one another and with other persons and corporations to restrain trade and commerce among the several States and Territories of the United States in the shipment and sale of gunpowder and other high explosives and to control, regulate, and monopolize said trade and commerce, as more particularly alleged in this bill of complaint; that, in pursuance of such agreement, combination, and conspiracy to restrain and monopolize such trade and commerce, certain of said individual defendants did organize and cause to be organized the E. I. du Pont de Nemours Powder Company (of New Jersey), E. I. du Pont de Nemours and Company (of Delaware), the California Investment Company, the Delaware Investment Company, the Delaware Securities Company, and the du Pont International Powder Company, and each of them, as stockholding companies, to be used as instrumentalities in furtherance of said combination and conspiracy; and that said individual defendants did, in the manner as in this petition charged, cause the Laflin & Rand Powder Company, The Hazard Powder Company, and the Eastern Dynamite Company, and each of them, to be used as holding companies and as instrumentalities and devices in furtherance of said combination and conspiracy in restraint of trade and commerce.

(3) And your petitioner prays that such holding, ownership, and control of the capital stocks of the various defendant corporations by and through the various holding companies and those companies used as holding companies, in the manner and for the purposes herein alleged, be adjudged and decreed to be in violation of said act of Congress and unlawful and void, as in restraint of such trade and commerce among the various States and Territories of the United States and the District of Columbia, and as an attempt to monopolize such trade and commerce.

(4) And your petitioner prays for the following specific relief:

(*a*) That E. I. du Pont de Nemours and Company (of Delaware) be enjoined, restrained, and prohibited from exercising any control over the E. I. du Pont de Nemours Powder Company (of New Jersey), by the election or appointment of directors, officers, agents, or servants, or in any other manner, and that the E. I. du Pont de Nemours Powder Company (of New Jersey), its board of directors, officers, and agents, and each of them, be enjoined and prohibited from paying any dividends to the said E. I. du Pont de Nemours and Company (of Delaware), or any of its officers or agents, or to any other person or corporation acting for or in behalf of the said Delaware corporation.

(*b*) That the E. I. du Pont de Nemours Powder Company (of New Jersey) and its officers and agents and board of directors, and each of them, be enjoined, restrained, and prohibited from exercising any control over its various subsidiary companies or any of them, by the election or appointment of directors, officers, agents, or servants in such subsidiary companies or in any other manner, and that the subsidiary companies owned and controlled by the said New Jersey corporation by virtue of stock holdings as in this petition alleged, and each of them, and their officers and directors be enjoined and prohibited from paying any dividends to the said New Jersey corporation or any of its officers or agents, or any person or corporation acting for or in behalf of the said E. I. du Pont de Nemours Powder Company (of New Jersey).

(*c*) That the California Investment Company (of Delaware) and its officers, and agents, and board of directors, and each of them, be enjoined, restrained, and prohibited from exercising any control over the Judson Dynamite and Powder Company of California, by the election or appointment of directors, officers, agents, or servants in said company, or in any other manner, and that the said Judson Dynamite and Powder Company, its officers, board of directors, and agents be enjoined and prohibited from paying any dividends to the said California Investment Company or any of its officers or agents, or any persons or corporations acting for or in behalf of the said California Investment Company.

(*d*) That the Delaware Investment Company (of Delaware) and its officers and agents and board of directors, and each of them, be enjoined, restrained, and prohibited from exercising any control over E. I. du Pont de Nemours and Company of Pennsylvania, by the election or appointment of directors, officers, agents, or servants in said company, and that the said E. I. du Pont de Nemours and Company of Pennsylvania, and its officers and directors be enjoined and prohibited from paying any dividends to the said Delaware Investment Company or any of its officers or agents, or any persons or corporations acting for it or in its behalf.

(*e*) That the Delaware Securities Company (of Delaware), and its officers and agents and board of directors, and each of them, be enjoined, restrained, and prohibited from exercising any control over the Laflin & Rand Powder Company by the election or appointment of directors, officers, agents, or servants in said company, and that the said Laflin & Rand Powder Company, and its officers and directors be enjoined and prohibited from paying any dividends to the said Delaware Securities Company or any of its officers or agents, or any persons or corporations acting for them or in their behalf.

(*f*) That the du Pont International Powder Company (of Delaware) be in like manner enjoined and restrained from exercising any control over the International Smokeless Powder and Chemical Company (of New Jersey), by the election or appointment of directors, officers, or agents in said company, and that the said International Smokeless Powder and Chemical Company and its officers and directors be enjoined and prohibited from paying any dividends to the said du Pont International Powder Company (of Delaware), or any of its officers or agents, or any persons or corporations acting for them or in their behalf.

(*g*) That the Laflin & Rand Powder Company (of New York) the Hazard Powder Company (of Connecticut) and the Eastern Dynamite Company (of New Jersey), and each of them, and their respective officers and agents, be enjoined, restrained, and prohibited from exercising any control over the various subsidiary companies of each of said corporations, respectively, by the election or appointment of directors, officers, agents, or servants, or in any other manner, and that the subsidiary companies owned and controlled by the said Laflin & Rand Powder Company, the said Hazard Powder Company, and the said Eastern Dynamite Company, respectively, and the officers and directors of such subsidiary companies, and each and all of them, be enjoined and prohibited from paying any dividends to the said Laflin & Rand Powder Company, the said Hazard Powder Company, and the said Eastern Dynamite Company, or either of them, or to any of their officers or agents, or to any persons or corporations acting for them or in their behalf for the purpose of receiving such dividends.

(5) That this honorable court further adjudge and decree that the E. I. du Pont de Nemours Powder Company (of New Jersey), the E. I. du Pont de Nemours Powder Company (of Delaware), the Laflin & Rand Powder Company, and the Eastern Dynamite Company is each a combination in restraint of interstate trade and commerce; that each has attempted and is attempting to monopolize and is in a combination and conspiracy with other persons and corporations to monopolize and has monopolized the trade and commerce in the shipment and sale of gunpowder and other high explosives among the several States; that each one of said corporations be enjoined and restrained from engaging in, carrying on, or conducting such interstate trade and commerce, or, if the court should be of the opinion that the public interests will be better subserved thereby, that receivers be appointed to take possession of all the property, assets, business, and affairs of said corporations and each of them, with full power to administer the same and to take such course in regard thereto as will bring about conditions in such trade and commerce among the several States and with foreign nations as shall be in harmony with law.

(6) That said defendants, and each of them, and all and each of their respective directors, officers, and agents, and all persons acting under or through them, or in their behalf, be enjoined, restrained, and prohibited from attempting through and by means of concerted action among themselves or with other corporations or persons to drive out of business the various independent powder companies in the manner and form as alleged in this petition or otherwise, and that the defendants

herein, and each of them, be enjoined, restrained, and prohibited from carrying out the agreement and understanding with The Ætna Powder Company, The Miami Powder Company, and The American Powder Mills, or any other contract, understanding, or agreement whereby competition between said companies with the other defendants herein may be suppressed and eliminated.

(7) And your petitioner prays that said defendants, and each of them, and all and each of their respective directors, officers, agents, servants, and employees, and all persons acting under or through them, or either of them, or in their behalf, or claiming so to act, be enjoined, restrained, and prohibited from restraining such trade and commerce and from monopolizing the same and from attempting so to do by any other means, instrumentalities, devices, contracts, agreements, or conspiracies similar to or in the nature of those which are hereinbefore in this petition specifically set forth and described.

(8) And your petitioner, the United States of America, also prays for such other and further relief as the nature of the case may require and as the court may deem just and proper in the premises.

To the end therefore that the United States of America may obtain the relief to which it is justly entitled in the premises, may it please your honors to grant to it writs of subpœna directed to the said defendants, E. I. du Pont de Nemours and Company; E. I. du Pont de Nemours Powder Company (of New Jersey); du Pont International Powder Company; Delaware Securities Company; California Investment Company; Delaware Investment Company; The Hazard Powder Company; Laflin & Rand Powder Company; Eastern Dynamite Company; E. I. du Pont de Nemours Powder Company (of Delaware); E. I. du Pont de Nemours and Company of Pennsylvania; The King Powder Company; Austin Powder Company of Cleveland; California Powder Works; Conemaugh Powder Company; Fairmont Powder Company; International Smokeless Powder and Chemical Company; Judson Dynamite and Powder Company of California; Metropolitan Powder Company; Peyton Chemical Company; The Ætna Powder Company; The American E. C. & Schultz Gunpowder Company, Limited; The American Powder Mills; The Anthony Powder Company, Limited; The Equitable Powder Manufacturing Company; The Miami Powder Company; Alexis I. du Pont; Alfred I. du Pont; Eugene du Pont; Eugene E. du Pont; Henry A. du Pont; Harry F. du Pont; Ireneé du Pont; Francis I. du Pont; Pierre S. du Pont; Thomas Coleman du Pont; Victor du Pont, jr.; Jonathan A. Haskell; Arthur J. Moxham; Hamilton M. Barksdale; Henry F. Baldwin; Edmond G. Buckner, and Frank L. Connable, and each and every one of them, commanding them, and each of them, to appear herein and answer, but not under oath (answer under oath being hereby expressly waived), the allegations contained in the foregoing petition and abide by and perform such order and decree as the court may make in the premises.

_____, _____,
United States District Attorney
for the District of Delaware.

_____ _____.
_____ _____.

UNITED STATES OF AMERICA, DISTRICT OF DELAWARE, *ss:*

Be it remembered, that on this thirtieth day of July, in the year of our Lord one thousand nine hundred and seven, personally appeared before me, William G. Mahaffy, United States Commissioner for said district, John P. Nields, United States District Attorney for the District of Delaware, acting under the direction of the Attorney-General of the United States, who, being by me duly sworn upon the Holy Evangels of Almighty God, deposes and says; that what is contained in the foregoing petition so far as concerns the petitioner's act and deed is true of his own knowledge, and that what relates to the act and deed of any other person he believes to be true, and that the facts set forth in the foregoing petition so far as stated, of his own knowledge, are true and correct, and so far as stated from information, he believes to be true and correct.

_____.

Sworn and subscribed to before me the day and year last aforesaid.

_____,
United States Commissioner.

Exhibit A.

Names of corporations of which the corporations named at the head of the next columns were stockholders on July 1, 1902.	Number of shares of the capital stock of the corporation named in column 1, opposite each designation, issued and outstanding on July 1, 1902.	Number of shares of the capital stock of the company named in column 1, opposite each designation, owned on July 1, 1902, by the corporation named below.			
		E. I. du Pont de Nemours & Co. (1902, Delaware corporation).	The Hazard Powder Co.	Laflin & Rand Powder Co.	Eastern Dynamite Co.
Acme Powder Co. (Pennsylvania), dissolved July 9, 1904	400				400
American Forcite Powder Manufacturing Co. (New York), dissolved Dec. 31, 1904	9,000				9,000
The Anthracite Powder Co. (Pennsylvania), dissolved Sept. 12, 1904	250		125	125	
The Anthony Powder Co. (Limited) (Michigan)	10,000				4,850
Atlantic Ammunition Co. (New York), dissolved, date not known	283		283		
Atlantic Dynamite Co. of New Jersey (New Jersey), dissolved Apr. 21, 1904	6,000				5,500
Atlantic Dynamite Co. (New York), dissolved Sept. 23, 1904	20				20
Atlantic Manufacturing Co. (Wisconsin), dissolved Nov. 8, 1905	1,000				1,000
Austin Powder Co. of Cleveland (Ohio)	800	266			
Birmingham Powder Co. (Alabama), dissolved, date not known	625	208		149	
Blue Ridge Powder Co. (Pennsylvania), dissolved June 6, 1904	220				220
Brooklyn Glycerine Manufacturing and Refining Co. (New York), dissolved May 6, 1905	200			50	100
California Powder Works (California)	30,000	13,000			
The Chattanooga Powder Co. (New Jersey), dissolved Apr. 11, 1905	2,500	821¼		544	
Clinton Dynamite Co. (New York), dissolved Sept. 30, 1904	100				100
The Climax Powder Manufacturing Co. (Pennsylvania), dissolved, date not known	300			50	100
Columbian Powder Co. (Pennsylvania), dissolved, date not known	200				200
Eastern Dynamite Co. (New Jersey)	20,000	1,900	5,165	5,807	
Enterprise High Explosives Co. (Pennsylvania), dissolved, date not known	240				240
E. I. du Pont de Nemours & Co. of Pennsylvania (Pennsylvania)	200	200			
The Equitable Powder Manufacturing Co. (New Jersey)	1,000	298		192	
Fairmont Powder Co. (West Virginia)	750	450			
Globe Powder Co. (Pennsylvania), dissolved Nov. 21, 1904	800	259		191	
The Hazard Powder Co. (Connecticut)	10,000	10,000			
Hecla Dynamite Co. (New York), dissolved Sept. 23, 1904	50				50
Hecla Powder Co. (New York), dissolved Jan. 23, 1903	102		52		50
Hercules Powder Co. (New York), dissolved Sept. 23, 1904	30				30
Hudson River Powder Co. (New York), dissolved Sept. 9, 1904	150				150
Indiana Powder Co. (Indiana), dissolved Apr. 12, 1905	2,000	411	237	476	
Judson Dynamite and Powder Co., of California (California)	20,000	7,800			
King Mercantile Co. (New Jersey), dissolved Mar. 7, 1907	500	188		121	
Arthur Kirk & Sons Co. (Pennsylvania), dissolved June 28, 1904	800			313	
Laflin Powder Manufacturing Co. (Pennsylvania), dissolved, date not known	6,000	2,091		2,091	
Laflin & Rand Powder Co. (New York)	10,000	25			
The Lake Superior Powder Co. (New Jersey), dissolved Apr. 7, 1905	4,000	908	609	826	
Mount Wolf Dynamite Co. (Pennsylvania), dissolved July 6, 1904	120				120
Mahoning Powder Co. (Pennsylvania), dissolved, date not known	1,000	500		500	
Marcellus Powder Co. (New York), dissolved Sept. 23, 1904	600	179	167	179	
The Monarch Powder Co. (Pennsylvania), dissolved Nov. 10, 1904	200			43	
The Moosic Powder Co. (Pennsylvania), merged into E. I. du Pont de Nemours & Co., of Pennsylvania, Aug. 1, 1903	3,000			1,530	
New York Powder Co. (New Jersey), dissolved, date not known	500				500
New York Powder Co. (New York), dissolved Feb. 26, 1906	10				10
Northwestern Powder Co. (Indiana), dissolved Apr. 12, 1905	600	136	58	143	
The Ohio Powder Co. (Ohio), dissolved Apr. 19, 1905	1,500	230	116	224	
Oriental Powder Mills (Maine), dissolved Aug. 23, 1905	4,000	1,255	1,222	1,223	
Peyton Chemical Co. (California)	6,350	3,000			
The Phœnix Powder Manufacturing Co, (West Virginia), dissolved Apr. 7, 1906	8,000	2,314	1,104	2,099	
Repauno Chemical Co. (New York), dissolved Sept. 23, 1904	50				50
Rock Glycerine Co. (Pennsylvania), dissolved, date not known	250			250	
The Schaghticoke Powder Co. (New York), dissolved Feb. 13, 1907	1,000			779	
Shenandoah Powder Co. (Pennsylvania), dissolved, date not known	600	300		300	
A. S. Speece Powder Co. (Pennsylvania), dissolved Feb. 15, 1904	29			29	
Standard Explosives Co. (Limited) (New Jersey), dissolved Oct. 14, 1905	1,000				1,000
United States Dynamite Co. (New Jersey), dissolved, date not known	120				120
Utah Powder Co. (California), dissolved, date not known	2,431	1,533	898		
H. A. Weldy Powder Co. (Delaware), dissolved, date not known	2,000	1,333			
York Powder Co. (Pennsylvania), dissolved May 2, 1904	398				398

The Clerk read as follows:

INCREASE OF THE NAVY.

That, for the purpose of further increasing the naval establishment of the United States, the President is hereby authorized to have constructed 2 first-class battle ships, to cost, exclusive of armor and armament, not exceeding $6,000,000 each, similar in all essential characteristics to the battle ship authorized by the act making appropriations for the naval service for the fiscal year ending June 30, 1908.

Mr. FOSS. Mr. Chairman, I suggested that the Clerk be permitted to read the whole paragraph, in order that it may go into the RECORD. I shall not ask for consideration this evening.

Mr. TAWNEY. I understood the Clerk had read the paragraph.

Mr. FOSS. I mean the whole subject of the naval programme. It goes down to "Construction of machinery," page 62.

The CHAIRMAN. The gentleman asks unanimous consent that the entire "Increase of the navy," down to page 62, may be read, with the understanding that the amendments may be offered to any particular paragraph.

Mr. FITZGERALD. I object.

Mr. FOSS. I simply ask that the paragraphs may be read, and then I will move that the committee rise.

Mr. FITZGERALD. But I call the attention of the gentleman to the fact that this consists of a number of paragraphs, and one motion to shut off debate would cut off debate on a number of items.

Mr. FINLEY. Mr. Chairman, I have an amendment I wish to offer.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 59, line 7, after the word "constructed," strike out the remainder of the paragraph down to and including line 12.

Mr. FOSS. Mr. Chairman, I would like to ask unanimous consent that all the paragraphs relating to increase of the navy be put in the RECORD for the information of the House.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that all the matter in the bill relating to the increase of the navy may be printed in the RECORD. Is there objection?

There was no objection.

The provisions are as follows:

INCREASE OF THE NAVY.

That, for the purpose of further increasing the naval establishment of the United States, the President is hereby authorized to have constructed two first-class battle ships to cost, exclusive of armor and armament, not exceeding $6,000,000 each, similar in all essential characteristics to the battle ship authorized by the act making appropriations for the naval service for the fiscal year ending June 30, 1908.

Five torpedo-boat destroyers, to have the highest practicable speed, and to cost, exclusive of armament, not to exceed $800,000 each.

The Secretary of the Navy is hereby authorized, in his discretion, to contract for or purchase one destroyer whose vitals are located below the normal-load water line, such vessel to cost not to exceed $400,000 and to have a speed not less than 22 knots; also two small vessels of similar construction having a speed of not less than 16 knots and to cost not to exceed $22,500 each: *Provided*, That before any vessel provided for in this paragraph shall be purchased or contracted for a vessel of similar construction shall have been constructed complete and of full size for naval warfare and submitted to the Navy Department for such trial and tests as the Secretary of the Navy may, in his discretion, prescribe, and as the result of such tests be demonstrated to have fulfilled all the reasonable requirements of naval warfare for such a vessel.

One fleet collier, of 14 knots trial speed, when carrying not less than 12,500 tons of cargo and bunker coal, to cost not exceeding $1,000,000.

The Secretary of the Navy is hereby authorized to build four fleet colliers of 14 knots trial speed when carrying not less than 12,500 tons of cargo and bunker coal in lieu of the two fleet colliers having the same characteristics authorized to be built by the act making appropriations for the naval service for the fiscal year ending June 30, 1909: *Provided*, That the cost of all four colliers shall not exceed the total limit of cost of $3,600,000 authorized in said act for the two colliers: *And provided further*, That all of said colliers, in the discretion of the Secretary of the Navy, may be built by contract.

And the contract for the construction of said vessels shall be awarded by the Secretary of the Navy to the lowest best responsible bidder, having in view the best results and most expeditious delivery; and in the construction of all of said vessels the provisions of the act of August 3, 1886, entitled "An act to increase the naval establishment," as to materials for said vessels, their engines, boilers, and machinery, the contracts under which they are built, the notice of any proposals for the same; the plans, drawings, specifications therefor, and the method of executing said contracts shall be observed and followed, and, subject to the provisions of this act, all said vessels shall be built in compliance with the terms of said act, and in all their parts shall be of domestic manufacture; and the steel material shall be of domestic manufacture, and of the equality and characteristics best adapted to the various purposes for which it may be used, in accordance with specifications approved by the Secretary of the Navy.

For four submarine torpedo boats, in an amount not exceeding in the aggregate $2,000,000, and the sum of $3,000,000 is hereby appropriated toward said purpose and for the completion of submarine boats heretofore authorized: *Provided*, That the Secretary of the Navy may build any or all of the vessels herein authorized in such navy-yards as he may designate, and shall build any of the vessels herein authorized in such navy-yards as he may designate, should it reasonably appear that the persons, firms, or corporations, or the agents thereof, bidding for the construction of any of said vessels, have entered into any combination, agreement, or understanding, the effect, object, or purpose of which is to deprive the Government of fair, open, and unrestricted competition in letting contracts for the construction of any of said vessels.

Construction and machinery: On account of hulls and outfits of vessels and steam machinery of vessels heretofore authorized, $22,766,823.

Armor and armament: Toward the armor and armament of domestic manufacture for vessels authorized, $12,452,772: *Provided*, That no part of this appropriation shall be expended for armor for vessels except upon contracts for such armor when awarded by the Secretary of the Navy to the lowest responsible bidders, having in view the best results and most expeditious delivery.

Increase of the navy, equipment: Toward the completion of the equipment outfit of the new vessels authorized, $600,000.

Increase of the navy, torpedo boats: On account of submarine torpedo boats, heretofore and herein authorized, $3,000,000.

Total increase of the navy, $38,819,595.

Mr. FOSS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MANN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26394, the naval appropriation bill, and had come to no resolution thereon.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 23863. An act for the exchange of certain lands situated in the Fort Douglas Military Reservation, State of Utah, for lands adjacent thereto, between the Mount Olivet Cemetery Association, of Salt Lake City, Utah, and the Government of the United States;

H. R. 24344. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors; and

H. J. Res. 216. Joint resolution for a special Lincoln postage stamp.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 7675. An act to increase the limit of cost for the enlargement, extension, remodeling, and improvement of the federal building at Sioux Falls, S. Dak.—to the Committee on Public Buildings and Grounds.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 653. An act to authorize commissions to issue in the cases of officers of the army, navy, and Marine Corps and of the Revenue-Cutter Service retired with increased rank.

ARMY APPROPRIATION BILL.

Mr. HULL of Iowa, chairman of the Committee on Military Affairs, by the direction of that committee, reported the bill (H. R. 26915) making appropriation for the support of the army for the fiscal year ending June 30, 1910, which was read and, with accompanying papers, referred to the Committee of the Whole House on the state of the Union and ordered printed.

Mr. FITZGERALD reserved all points of order.

ADJOURNMENT.

Mr. FOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 4 o'clock and 54 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for implements and other equipment for Indians at Fort Belknap Reservation (H. Doc. No. 1354)—to the Committee on Indian Affairs and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for additional stacks for Patent Office library (H. Doc. No. 1355)—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of Commerce and Labor, transmitting a statement of the expenditures of the Coast and Geo-

detic Survey for the fiscal year ended June 30, 1908 (H. Doc. No. 1356)—to the Committee on Expenditures in the Department of Commerce and Labor and ordered to be printed.

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation relating to the issue of patents for land to Makah Indians (H. Doc. No. 1357)—to the Committee on Indian Affairs and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for continuing the sanitation of Colon and Panama (H. Doc. No. 1358)—to the Committee on Appropriations and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. GREENE, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 26070) to provide for the deduction of hatchways and water-ballast space from the gross tonnage of vessels, reported the same without amendment, accompanied by a report (No. 1894), which said bill and report were referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 23381) granting a pension to Mary A. Enright—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 9539) granting a pension to Ben F. Herring—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. WALLACE: A bill (H. R. 26826) to provide for survey of Saline River, in the State of Arkansas—to the Committee on Rivers and Harbors.

By Mr. GRIGGS: A bill (H. R. 26827) requiring the destruction of whisky, brandy, wines, beers, and other illicitly distilled liquors when seized by the officers of the United States—to the Committee on Ways and Means.

By Mr. COX of Indiana: A bill (H. R. 26828) for the construction of a lock and dam in the Ohio River—to the Committee on Rivers and Harbors.

By Mr. COOPER of Pennsylvania: A bill (H. R. 26829) to amend an act entitled "An act to amend an act to authorize the Fayette Bridge Company to construct a bridge over the Monongahela River, Pennsylvania, from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County," approved March 7, 1908—to the Committee on Interstate and Foreign Commerce.

By Mr. COX of Indiana: A bill (H. R. 26830) to survey and purchase a site for lock and dam at Leavenworth, Ind.—to the Committee on Rivers and Harbors.

By Mr. TOWNSEND: A bill (H. R. 26831) providing for the erection of a monument in Arlington Cemetery to the memory of Charles Vernon Gridley, late captain, United States Navy—to the Committee on Naval Affairs.

By Mr. PRAY: A bill (H. R. 26832) to provide an additional district judge for the district of Montana—to the Committee on the Judiciary.

By Mr. COUSINS: A bill (H. R. 26833) authorizing a survey of the Cedar River, and for other purposes—to the Committee on Rivers and Harbors.

By Mr. HAYES: A bill (H. R. 26834) to provide for payment of the claims of certain religious orders in the Philippine Islands—to the Committee on War Claims.

By Mr. MARTIN: A bill (H. R. 26835) for the erection of a public building at Rapid City, S. Dak.—to the Committee on Public Buildings and Grounds.

By Mr. WILEY: A bill (H. R. 26836) to extend the scope of the operations of the Office of Public Roads, in the Department of Agriculture, so as to embrace national aid in the improvement of the public roads—to the Committee on Agriculture.

By Mr. HAYES: A bill (H. R. 26837) to provide for payment of the claims of the Roman Catholic Church in Porto Rico—to the Committee on War Claims.

By Mr. LARRINAGA: A bill (H. R. 26838) to authorize Behn Brothers, of San Juan, P. R., to construct a bridge across a portion of the Condado Bay, at the eastern extremity of San Juan Island, Porto Rico—to the Committee on Interstate and Foreign Commerce.

By Mr. BROUSSARD: A bill (H. R. 26839) providing for an increase of salary for the United States marshal for the eastern district of Louisiana—to the Committee on the Judiciary.

By Mr. BURKE: A bill (H. R. 26914) donating a condemned cannon to the joint committee for monument for Arsenal Park, at Pittsburg, Pa.—to the Committee on Military Affairs.

By Mr. FOSS: Resolution (H. Res. 502) providing for consideration of certain provisions of the naval appropriation bill—to the Committee on Rules.

By Mr. FOSTER of Vermont: Joint resolution (H. J. Res. 243) to authorize the Secretary of State to invite France and Great Britain to participate in the proposed tercentenary celebration of the discovery of Lake Champlain by Samuel de Champlain—to the Committee on Foreign Affairs.

By Mr. CRUMPACKER: Joint resolution (H. J. Res. 244) authorizing the Director of the Census to secure names and addresses of blind and deaf—to the Committee on the Census.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BARNHART: A bill (H. R. 26840) to remove the charge of desertion from the military record of William Shaffer and to grant him an honorable discharge—to the Committee on Military Affairs.

By Mr. BARTHOLDT: A bill (H. R. 26841) for the relief of the estate of Jesse Page, deceased—to the Committee on War Claims.

By Mr. BARTLETT of Georgia: A bill (H. R. 26842) granting a pension to John G. Patton—to the Committee on Pensions.

By Mr. CAPRON: A bill (H. R. 26843) granting an increase of pension to Timothy W. Tracy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26844) granting an increase of pension to Joseph J. Butcher—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26845) granting an increase of pension to Henry Dyer—to the Committee on Invalid Pensions.

By Mr. CARY: A bill (H. R. 26846) granting an increase of pension to Charles A. Tyler—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26847) granting an increase of pension to Charles Aldrich—to the Committee on Invalid Pensions.

By Mr. COOPER of Pennsylvania: A bill (H. R. 26848) granting an increase of pension to Edgar Chyle—to the Committee on Invalid Pensions.

By Mr. COUSINS: A bill (H. R. 26849) granting a pension to Anna M. Landon—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26850) granting a pension to Emma Rebecca Campbell—to the Committee on Invalid Pensions.

By Mr. DENVER: A bill (H. R. 26851) granting an increase of pension to John N. McCollough—to the Committee on Invalid Pensions.

By Mr. ELLIS of Missouri: A bill (H. R. 26852) granting a pension to John W. Fann—to the Committee on Invalid Pensions.

By Mr. ESTOPINAL: A bill (H. R. 26853) for the relief of the estate of Fredrick Arbour, deceased—to the Committee on War Claims.

By Mr. FOCHT: A bill (H. R. 26854) granting a pension to Sarah E. Hood—to the Committee on Invalid Pensions.

By Mr. FOSTER of Illinois: A bill (H. R. 26855) granting a pension to Ferdinand Schmadel—to the Committee on Invalid Pensions.

By Mr. FOSS: A bill (H. R. 26856) granting an increase of pension to James J. Furlong—to the Committee on Invalid Pensions.

By Mr. FOWLER: A bill (H. R. 26857) granting a pension to Oliver L. Kerkendall—to the Committee on Pensions.

By Mr. GARDNER of Michigan: A bill (H. R. 26858) to remove the charge of desertion from the military record of Francis E. Hale—to the Committee on Military Affairs.

By Mr. HALE: A bill (H. R. 26859) for the relief of the legal representatives of William C. Blalock, deceased—to the Committee on War Claims.

By Mr. HEPBURN: A bill (H. R. 26860) granting a pension to J. R. Landes—to the Committee on Invalid Pensions.

By Mr. HUBBARD of West Virginia: A bill (H. R. 26861) granting a pension to Lizzie Stotsbury—to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 26862) for the relief of the heirs of Robert A. Wilborn, deceased—to the Committee on War Claims.

Also, a bill (H. R. 26863) for the relief of the heirs of Samuel Hunt, deceased—to the Committee on War Claims.

Also, a bill (H. R. 26864) for the relief of the estate of William I. Longacre—to the Committee on War Claims.

Also, a bill (H. R. 26865) granting an increase of pension to Robert Morris—to the Committee on Pensions.

By Mr. OLLIE M. JAMES: A bill (H. R. 26866) to correct the military record of Lee Thompson—to the Committee on Military Affairs.

By Mr. KENNEDY of Iowa: A bill (H. R. 26867) granting an increase of pension to Jefferson Worster—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26868) granting an increase of pension to Samuel Minnich—to the Committee on Invalid Pensions.

By Mr. KINKAID: A bill (H. R. 26869) granting an increase of pension to Isaac Emmerson—to the Committee on Invalid Pensions.

By Mr. KÜSTERMANN: A bill (H. R. 26870) granting a pension to Mayme E. Lacourciere—to the Committee on Pensions.

By Mr. LANING: A bill (H. R. 26871) to pay to Harrison Wagner the sum of $231.99—to the Committee on Accounts.

By Mr. LAMB: A bill (H. R. 26872) granting a pension to Monroe T. Houchens—to the Committee on Pensions.

By Mr. LAW: A bill (H. R. 26873) granting an honorable discharge to August Merkle—to the Committee on Military Affairs.

By Mr. LINDSAY: A bill (H. R. 26874) granting an increase of pension to Jacob Weingartner—to the Committee on Invalid Pensions.

By Mr. LOUDENSLAGER: A bill (H. R. 26875) granting an increase of pension to Beatrice Paul Marmion—to the Committee on Pensions.

By Mr. McCALL: A bill (H. R. 26876) granting an increase of pension to Emma J. Winward—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26877) granting an increase of pension to Mary Jones—to the Committee on Invalid Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 26878) granting a pension to Mabel Jewell—to the Committee on Pensions.

By Mr. McLACHLAN of California: A bill (H. R. 26879) granting an increase of pension to Tilman P. Edgerton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26880) granting an increase of pension to Richard Burge—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26881) granting an increase of pension to Henry F. Vallett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26882) granting an increase of pension to Robert W. Rogers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26883) granting an increase of pension to Dennis P. Greeley—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26884) granting an increase of pension to James H. Pope—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26885) granting an increase of pension to Alphonso L. Stacy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26886) granting an increase of pension to Albert McMaster—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26887) granting an increase of pension to Martin Markeson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26888) granting an increase of pension to James A. Mead—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26889) granting an increase of pension to Irwin Metcalfe—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26890) granting an increase of pension to Seth B. R. Tubbs—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26891) granting an increase of pension to Nelson Wallace—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26892) granting an increase of pension to David Murphy—to the Committee on Invalid Pensions.

By Mr. MARTIN: A bill (H. R. 26893) granting a pension to Charles Windolph—to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 26894) for the relief of the estate of John W. Neely—to the Committee on War Claims.

By Mr. PEARRE: A bill (H. R. 26895) for the relief of the heirs or legal representatives of Frederick Wyand, deceased—to the Committee on War Claims.

Also, a bill (H. R. 26896) for the relief of the trustees and consistory of Mount Vernon Reformed Church, of Keedysville, Md.—to the Committee on War Claims.

Also, a bill (H. R. 26897) granting an increase of pension to Josephine B. Macfeely—to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 26898) granting an increase of pension to Humphrey Sett—to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 26899) granting an increase of pension to Jacob Confer—to the Committee on Invalid Pensions.

By Mr. SIMS: A bill (H. R. 26900) granting an increase of pension to Jesse H. Patterson—to the Committee on Invalid Pensions.

By Mr. STERLING: A bill (H. R. 26901) granting an increase of pension to James T. Rollf—to the Committee on Invalid Pensions.

By Mr. WANGER: A bill (H. R. 26902) granting a pension to Charles H. Butcher—to the Committee on Pensions.

By Mr. WEISSE: A bill (H. R. 26903) granting an increase of pension to James McDonough—to the Committee on Invalid Pensions.

By Mr. WEEKS: A bill (H. R. 26904) granting an increase of pension to Andrew P. Webber—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 26905) for the relief of the heirs of John H. McCutchen, deceased—to the Committee on War Claims.

By Mr. CHAPMAN: A bill (H. R. 26906) granting an increase of pension to Morris McGlasson—to the Committee on Invalid Pensions.

By Mr. GILLESPIE: A bill (H. R. 26907) for the relief of Lemuel J. Ward—to the Committee on Claims.

By Mr. KAHN: A bill (H. R. 26908) for the relief of Clarence Carrigan—to the Committee on Military Affairs.

By Mr. RICHARDSON: A bill (H. R. 26909) granting a pension to S. F. Kennamer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26910) granting a pension to William Fuller—to the Committee on Pensions.

Also, a bill (H. R. 26911) granting an increase of pension to Jonathan B. Hall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26912) for the relief of Mary Tullis—to the Committee on War Claims.

By Mr. SLEMP: A bill (H. R. 26913) granting an increase of pension to William S. Shoupe—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of legislative assembly of New Mexico, praying for statehood—to the Committee on the Territories.

By Mr. AIKEN: Papers to accompany bills for relief of W. F. Parker and Ellen F. Carter—to the Committee on War Claims.

By Mr. ALLEN. Petition of Crooked River Grange, of Harrison, Me., for a national highways commission—to the Committee on Agriculture.

Also, petition of Rev. George W. Barber and 25 other members of the Highland Grange, of Bridgton, Me., favoring parcels-post and postal savings bank laws—to the Committee on the Post-Office and Post-Roads.

By Mr. BARTLETT of Georgia: Paper to accompany bill for relief of John G. Patton—to the Committee on Pensions.

Also, petition of Board of Trade of City of Atlanta, favoring increase of judges' salaries—to the Committee on the Judiciary.

Also, petitions of Central Labor Union of Macon, Ga., and Chamber of Commerce of Macon, Ga., against creation of an additional judicial district in Georgia—to the Committee on the Judiciary.

By Mr. BURKE: Petition of Pittsburg Board of Trade, favoring S. 6484, for saving depositories in all post-offices authorized to issue money orders—to the Committee on the Post-Office and Post-Roads.

Also, petition of Trades League of Philadelphia, favoring increase of salaries of judges—to the Committee on the Judiciary.

Also, petition of headquarters of the Grand Army of the Republic, against abolition of pension agencies in the United States—to the Committee on Invalid Pensions.

Also, petition of National Lumber Manufacturers' Association, against reduction of tariff on lumber—to the Committee on Ways and Means.

By Mr. BURLESON: Petition of business men of Somersville, against parcels post on rural delivery routes and establishment of postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. CALDER: Petition of New York Board of Trade and Transportation, favoring legislation to secure adequate revenue

to the railroads—to the Committee on Interstate and Foreign Commerce.

Also, petition of Robert Carmichael, favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. CAPRON: Petition of Charles R. Aldrich and other citizens of Rhode Island, favoring parcels post on rural free-delivery routes and postal savings banks (S. 5122 and 6484)—to the Committee on the Post-Office and Post-Roads.

Also, letter of Dr. J. E. Power, of Providence; resolutions of the Northeastern Dental Association; and statement of Dr. Emory A. Bryant, for passage of the bill creating a corps of dental surgeons for the army—to the Committee on Military Affairs.

Also, petition of Charles R. Aldrich and other citizens of Rhode Island, favoring a national highways commission—to the Committee on Agriculture.

Also, papers to accompany bills for relief of Timothy W. Tracy, Joseph J. Butcher, and Henry Dyer—to the Committee on Invalid Pensions.

By Mr. CARY: Petition of Froedtert Brothers, of Milwaukee, Wis., against reduction of duty on barley, wheat, and other grains—to the Committee on Ways and Means.

By Mr. CHANEY: Petition of Trades League of Philadelphia, for increase of salaries of United States judges (S. 6973)—to the Committee on the Judiciary.

By Mr. COOK of Pennsylvania: Petition of Trades League of Philadelphia, favoring increase of salaries of United States judges—to the Committee on the Judiciary.

By Mr. COUSINS: Petition of citizens of Marshalltown, Iowa, against S. 3940 (Johnston Sunday law)—to the Committee on the District of Columbia.

By Mr. DAWSON: Petition of Commercial Club of Davenport, Iowa, against postal savings banks and parcels-post laws—to the Committee on the Post-Office and Post-Roads.

By Mr. DRAPER: Petition of National Lumber Manufacturers' Association, against any reduction in tariff on lumber—to the Committee on Ways and Means.

Also, petition of Trades League of Philadelphia, favoring increase of salaries of United States judges—to the Committee on the Judiciary.

By Mr. ELLIS of Missouri: Paper to accompany bill for relief of Charles Sells (H. R. 24522)—to the Committee on Pensions.

By Mr. ELLIS of Oregon: Petitions of Louis J. Gates and 48 others, of Kent, Oreg., and F. L. Hulery and 29 others, of Sherman County, Oreg., favoring removal of duty from jute grain bags and burlap cloth from which the same is made—to the Committee on Ways and Means.

By Mr. ESCH: Petition of New Orleans Cotton Exchange, for investigation by Secretary of Agriculture into use and substitution of other articles of manufacture for raw cotton and report thereon—to the Committee on Agriculture.

By Mr. FOSS: Petition of citizens of Illinois, against passage of the Johnston Sunday-rest bill (S. 3940)—to the Committee on the District of Columbia.

By Mr. FOSTER of Illinois: Petition of George McGahey, Joseph Neiler, Barney A. Iaum, William Elliott, and O. D. Holmes, of Olney, Ill., favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. FOSTER of Vermont: Petition of Richford (Vt.) Grange, favoring establishment of parcels post and postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. FOWLER: Petition of New Jersey Chapter of American Institute of Architects, against placing the Lincoln monument near the Union Station—to the Committee on the Library.

Also, petitions of Madison Civic Association, of Madison, N. J., and Florence and Mary E. Tweedy, of Plainfield, N. J., favoring H. R. 24148, for a national bureau for the care of children—to the Committee on Expenditures in the Interior Department.

Also, petition of residents of Elizabeth, against the passage of S. 3940 (proper observance of Sunday as a day of rest in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. FRENCH: Petition of citizens of Idaho, favoring a parcels-post and postal savings bank law—to the Committee on the Post-Office and Post-Roads.

By Mr. FULLER: Petition of T. A. Pottinger, of Lasalle County, Ill., relative to the parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Washington Chamber of Commerce, favoring increase of salaries of government employees—to the Committee on Appropriations.

By Mr. GRAHAM: Petition of Headquarters Department of Pennsylvania, Grand Army of the Republic, against abolition of pension agencies in the United States—to the Committee on Invalid Pensions.

Also, petition of National Lumber Manufacturing Company, against reduction of tariff on lumber—to the Committee on Ways and Means.

By Mr. HARDWICK: Petitions of the T. Y. McCarty Shoe Company and others, of Saundersville, N. Y., and of the Florsheim Shoe Company, of Augusta, Ga., favoring removal of duty on hides—to the Committee on Ways and Means.

By Mr. HAYES: Petition of citizens of Campbell, Cal., favoring parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

Also, petition of various public bodies of California, asking that the Interstate Commerce Commission be given greater power in the matter of rate making—to the Committee on Interstate and Foreign Commerce.

Also, petition of National Lumber Manufacturers' Association, favoring retention of the tariff on lumber—to the Committee on Ways and Means.

By Mr. HEPBURN: Petitions of Charlton Post and T. J. Potter Post, Grand Army of the Republic, of Creston, Iowa, against volunteer officers' retired list—to the Committee on Military Affairs.

By Mr. HILL of Connecticut: Petition of business men of Canaan, Conn., against legislation to establish a parcels post and postal savings banks (S. 5122 and 6484)—to the Committee on the Post-Office and Post-Roads.

Also, petition of Women's Club of Bridgeport, favoring Senator Beveridge's bill regarding child labor—to the Committee on Labor.

By Mr. HUFF: Petition of Department of Pennsylvania, Grand Army of the Republic, against consolidation of pension agencies at Washington—to the Committee on Invalid Pensions.

Also, petition of National Lumber Manufacturers' Association urging present tariff duty on lumber, lath, and shingles—to the Committee on Ways and Means.

Also, petition of New Orleans Cotton Exchange, for investigation by the Secretary of Agriculture into substitution and use of cotton for other materials in manufacturing and report on same—to the Committee on Agriculture.

By Mr. KENNEDY of Iowa: Papers to accompany bills for relief of Samuel Minnich and Jefferson Worster—to the Committee on Invalid Pensions.

By Mr. LAMB: Paper to accompany bill for relief of Munroe T. Houchens—to the Committee on Pensions.

By Mr. LANING: Paper to accompany bill for relief of Harrison Wagner—to the Committee on Accounts.

Also, petition of North Fairfield Grange and C. E. Buckingham and 22 other residents of Ashland County, Ohio, against parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. LINDSAY: Petition of Trades League of Philadelphia, favoring increase of salaries of United States judges (S. 6973)—to the Committee on the Judiciary.

Also, petition of the National Lumber Manufacturers' Association, against reduction of tariff on lumber—to the Committee on Ways and Means.

Also, petition of Public Schools Athletic League, favoring bill referred to in message of President regarding rifle practice in the public schools—to the Committee on Military Affairs.

By Mr. LOUDENSLAGER: Papers to accompany bills for relief of Raymond O. Fatheree (H. R. 5878) and Abraham F. Williams—to the Committee on Pensions.

By Mr. McHENRY: Petition of George S. Welch and others, favoring establishment of parcels post and postal savings banks (S. 5122 and 6484)—to the Committee on the Post-Office and Post-Roads.

By Mr. McMILLAN: Petition of Grange No. 905, of Jackson Corner, N. Y., favoring parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. MANN: Petition of New Orleans Cotton Exchange, favoring investigation by the Secretary of Agriculture into the use and substitution of raw cotton for other materials of manufacture and report thereon—to the Committee on Agriculture.

Also, petition of Illinois State Horticultural Society, favoring federal control of insecticides and fungicides—to the Committee on Agriculture.

By Mr. OVERSTREET: Petition of Trades League of Philadelphia, favoring increase of salaries of United States judges—to the Committee on the Judiciary.

Also, petition of National Lumber Manufacturers' Association, against reduction of tariff on lumber—to the Committee on Ways and Means.

Also, petition of M. O'Connor & Co., favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

Also, petition of East Washington Citizens' Association, against provision in naval appropriation bill requiring the Philadelphia, Baltimore and Washington Railway Company to maintain its railway connection with the Washington Navy-Yard by grade tracks on K and Canal streets SE.—to the Committee on Naval Affairs.

By Mr. PADGETT: Paper to accompany bill for relief of estate of John W. Neely—to the Committee on War Claims.

By Mr. PEARRE: Paper to accompany bill for relief of Mount Vernon Reformed Church, of Keedysville, Md.—to the Committee on War Claims.

By Mr. PORTER: Petition of Stafford Grange, No. 418, of Genesee County, N. Y., favoring a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. RICHARDSON: Paper to accompany bill for relief of Mary Tullis—to the Committee on War Claims.

Also, papers to accompany bills for relief of Jonathan B. Hall and S. F. Kennamer—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of William Fuller—to the Committee on Pensions.

By Mr. SLEMP: Paper to accompany bill for relief of William M. Shoupe—to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: Petition of business firms and citizens of Columbus, Ohio, against a parcels-post and postal savings banks bill—to the Committee on the Post-Office and Post-Roads.

By Mr. THOMAS of North Carolina: Petition of National Lumber Manufacturers' Association, against decrease of tariff on lumber—to the Committee on Ways and Means.

Also, papers to accompany bills for relief of John Wise, heirs of Nancy Barfield, and heir of Mary Everitt—to the Committee on War Claims.

By Mr. WEBB: Paper to accompany bill for relief of L. Z. Hoffman—to the Committee on Pensions.

By Mr. WILLIAMS: Petition of citizens of Corinth, Miss., for appropriation to extend limits of Shiloh National Park (H. R. 39)—to the Committee on Military Affairs.

Also, paper to accompany bill for relief of heirs of John H. McCutchen—to the Committee on War Claims.

SENATE.

FRIDAY, *January 22, 1909.*

Prayer by the Chaplain, Rev. Edward E. Hale.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BURROWS, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

POST-OFFICE BUILDING IN DETROIT, MICH.

Mr. BURROWS. I ask unanimous consent for the present consideration of the bill (S. 7951) to provide for the erection of a temporary annex to the post-office building in Detroit, Mich.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of the Treasury to cause to be erected a temporary annex on the west side of the federal building in Detroit, Mich., to meet the necessities of the business of the post-office, at a total cost not to exceed $7,500, or so much thereof as may be necessary; the temporary annex to take the place of the annex to be removed from the north side of the building during the erection of the permanent addition now under construction.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELECTORAL VOTE OF NEBRASKA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authenticated copy of the certification of the final ascertainment of electors for President and Vice-President appointed in the State of Nebraska, which, with the accompanying paper, was ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had passed a bill (H. R. 26709) to amend an act to provide for the reorganization of the consular service of the United States, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the Vice-President:

S. 653. An act to authorize commissions to issue in the cases of officers of the Army, Navy, and Marine Corps and of the Revenue-Cutter Service retired with increased rank;

S. 6665. An act for the relief of Charles H. Dickson;

H. R. 15098. An act to correct the military record of John H. Layne;

H. J. Res. 232. Joint resolution to enable the States of Mississippi and Louisiana to agree upon a boundary line and to determine the jurisdiction of crimes committed on the Mississippi River and adjacent territory; and

H. J. Res. 233. Joint resolution to enable the States of Mississippi and Arkansas to agree upon a boundary line and to determine the jurisdiction of crimes committed on the Mississippi River and adjacent territory.

CREDENTIALS.

Mr. DEPEW presented the credentials of Elihu Root, chosen by the legislature of the State of New York a Senator from that State for the term beginning March 4, 1909, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. PERKINS presented a memorial, in the nature of a telegram, of the legislature of the State of California, remonstrating against the repeal of the duty on grapes imported from Spain, which was ordered to lie on the table.

Mr. PLATT presented a petition of Farmington Grange, No. 431, Patrons of Husbandry, of Ontario County, N. Y., and a petition of sundry citizens of the State of New York, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the board of directors of the Trades League of Philadelphia, Pa., praying for the enactment of legislation to increase the salaries of the United States circuit and district court judges, which was ordered to lie on the table.

He also presented a memorial of sundry members of the Forty-second Annual Encampment of the Department of New York, Grand Army of the Republic, of Buffalo, N. Y., remonstrating against the enactment of legislation to abolish certain pension agencies throughout the country, which was referred to the Committee on Pensions.

Mr. SCOTT presented the petition of Daniel S. Bush, of Harrisville, W. Va., praying for the enactment of legislation to create a volunteer retired list in the War and Navy departments for the surviving officers of the civil war, which was referred to the Committee on Military Affairs.

Mr. DILLINGHAM presented a petition of sundry citizens of the State of Vermont, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. BURKETT presented a petition of the Commercial Club, of Broken Bow, Nebr., praying for the enactment of legislation granting travel pay to railway postal clerks, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KNOX presented a memorial of Courtland Saunders Post, No. 21, Department of Pennsylvania, Grand Army of the Republic, of Philadelphia, Pa., remonstrating against the enactment of legislation to abolish certain pension agencies throughout the country, which was referred to the Committee on Pensions.

He also presented a petition of the National Board of Trade of Philadelphia, Pa., and a petition of the Chamber of Commerce of Pittsburg, Pa., praying that an appropriation be made for the improvement of the rivers and harbors of the country, which were referred to the Committee on Commerce.

He also presented petitions of Grange No. 91, of Russellville; Grange No. 875, of Columbus; Grange No. 503, of Oliveburg; Grange No. 1200, of Dalton; Grange No. 947, of Edinboro; Grange No. 1124, of Patton; Grange No. 365, of Dushore; Grange No. 806, of Elk Lake; Grange No. 1079, of Erie; Grange No. 304, of Crawford County; Grange No. 625, of Lawsonham; Grange No. 1308, of Washington County; Grange No. 1261, of Nicholson; Grange No. 1351, of Fairview; Grange No. 1088, of Westfield; Grange No. 910, of Venango; and Grange No. 1293, of Parma, all Patrons of Husbandry, in the State of Pennsylvania, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of Dr. Alpheus McKibben, of Pittsburg; Dr. E. E. Wible, of Pittsburg; Dr. Thomas T. Kirk, of Pittsburg; Dr. W. Herschel, of Pittsburg; Dr. William H. Mercur, of Pittsburg; Dr. A. J. Hesser, of Pittsburg; Allegheny County Medical Society, of Pittsburg; Dr. William C. Wallace, of Ingram; W. T. Hall, of Tarentum; and of the Center County Medical Society, of Bellefonte, all in the State of Pennsylvania,